



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 19]

शिमला, शनिवार, 3 अप्रैल, 1971/13 चैत्र, 1893

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3 अप्रैल, 1971/13 चैत्र, 1893 का समाप्त होने वाल सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं :—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 5-4/70-E&T (Sectt.), dated the 29th March, 1971.	Excise & Taxation Department	Extending the current valuation list in respect of Simla Rating Area by six months.
No. 5-4/70-E&T (Sectt.), dated the 29th March, 1971.	-do-	Extending the current valuation list in respect of Palampur Rating Area by one year.
No. 11-5/70-E&T-Sectt., dated the 31st March, 1971.	-do-	Removing the restrictions on the possession, sale, import or transport of Liquor within specified territorial limits.

भाग 1—बैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार DEPARTMENT OF PERSONNEL (APPOINTMENT) NOTIFICATIONS

Simla-2, the 19th February, 1971

No. 1-8/70-Appnt.—The Governor, Himachal Pradesh is pleased to order that Shri Arvind Kaul, I.A.S., Sub-Divisional Officer (Civil), Solan, District Mahasu shall also hold the additional charge of the post of Land Acquisition Officer, Solan vice Shri Rattan Singh on leave, in addition to his own duties till further orders.

Simla-2, the 20th February, 1971

No. 1-8 70-Appnt.—The Governor, Himachal Pradesh is pleased to order that Shri R. K. Sharma, Magistrate First Class-cum-Revenue Assistant, Mahasu district, Kasumpti shall hold the additional charge of the post of Compensation Officer, Mahasu district, Kasumpti in addition to his own duties vice Kumari Rajindera Kumari Chowdri I.A.S. transferred.

The Governor, Himachal Pradesh is further pleased to order that Shri R. K. Sharma, Magistrate First Class-cum-Revenue Assistant, Mahasu district, Kasumpti shall also hold the additional charge of the post of Land Acquisition Officer, Solan in addition to his own duties vice Shri Rattan Singh on leave.

HARSH GUPTA,
Joint Secretary.

Simla-2, the 20th February, 1971

No. 1-3/71-Appnt.—In partial modification of this Government notification of even number, dated the 25th January, 1971, the Governor, Himachal Pradesh is pleased to order that the Secretary (Judicial) shall also function as Secretary (Elections) to the Government of Himachal Pradesh as also Chief Electoral Officer instead of Secretary (Health and Family Planning) appointed vide item No. 7 of the Notification referred to above as a temporary measure till further orders.

K. N. CHANNA,
Chief Secretary.

Simla-2, the 25th February, 1971

No. 10-2/68 Appnt. (ii).—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Governor, Himachal Pradesh is pleased to appoint Shri P. B. Sharma, Sub-Divisional Officer (Civil), Hamirpur, District Kangra to be the Executive Magistrate of the First Class under the said Code to exercise the powers as such within the local limits of Sub-Division of Hamirpur of Kangra district with immediate effect.

2. In exercise of the powers conferred by section 13 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Governor, Himachal Pradesh is further pleased to place Shri P. B. Sharma, incharge of the Sub-Divisional, Hamirpur, District Kangra to be called Sub-Division Magistrate, Hamirpur, District Kangra with immediate effect.

HARSH GUPTA,
Joint Secretary.

Simla-2, the 11th March, 1971

No. 7-1/71-Appnt.—The Governor, Himachal Pradesh is pleased to determine the strength and composition of Himachal Pradesh Higher Judicial Service and the Himachal Pradesh Judicial Service as shown in Schedules 'A' and 'B' respectively.

The post of Judicial Secretary in the pay scale of Rs. 900-1800 with special pay of Rs. 200 P.M. is hereby re-designated as Legal Rememberancer and Secretary (Law) in the pay scale of Rs. 900-1800 with special pay of Rs. 200 P.M. with immediate effect.

ANNEXURE 'A'

STRENGTH AND COMPOSITION OF THE HIMACHAL PRADESH HIGHER JUDICIAL SERVICE

S. No.	Designation of post	Pay scale	No. of posts
1.	Legal Rememberancer and Secretary (Law).	Rs. 900-1800 plus Rs. 200 special pay.	1
2.	Secretary Vidhan Sabha	Rs. 900-1800 plus Rs. 200 special pay.	1
3.	Registrar High Court	Rs. 900-1800	1
4.	District and Sessions Judges	Rs. 900-1800	4
5.	Additional District and Sessions Judges.	Rs. 900-1800	2
6.	Deputation Leave Reserve	Rs. 900-1800	2
Total			11 (Eleven)

ANNEXURE "B"

STRENGTH AND COMPOSITION OF THE HIMACHAL PRADESH JUDICIAL SERVICE

S. No.	Designation of posts	Pay scale	No. of posts
1.	Senior Sub-Judges-cum-Chief Judicial Magistrates.	Rs. 400-1250	8
2.	Sub-Judges-cum-Judicial Magistrates.	Rs. 400-1250	13
3.	Leave and Deputation Reserve	Rs. 400-1250	5
Total			26 (Twenty six)

Simla-2, the 11th March, 1971

No. 1-17/71-Appnt.—Consequent upon the appointment of Shri D. B. Lal, Secretary Judicial and Election-cum-Chief Electoral Officer, Himachal Pradesh, as Judge, Himachal Pradesh High Court, the Governor, Himachal Pradesh is pleased to order that Shri U. N. Sharma, Financial Commissioner, Himachal Pradesh, shall also function as Secretary (Election) to the Government of Himachal Pradesh and also Chief Electoral Officer, Himachal Pradesh, in addition to his own duties, till further orders.

K. N. CHANNA,
Chief Secretary.

Simla-2, the 16th March, 1971

No. 3-36/66-Apptt. (I).—The Governor, Himachal Pradesh is pleased to accord *ex post facto* sanction to the grant of 13 days earned leave with effect from 4-1-71 to 16-1-71 in favour of Shri S. S. Guleri, I.A.S., presently posted as Deputy Commissioner, Bilaspur district, Himachal Pradesh with permission to prefix and suffix Sundays falling on 3rd and 17th January, 1971 subject to verification of title to leave.

2. Certified that Shri S. S. Guleri would have continued to officiate against the post of Deputy Commissioner Bilaspur but for his preceeding to leave for the period referred to above.

3. Certified that not later than the time, the Governor, formally sanctioned the leave, he then intended to repost Shri S. S. Guleri, to the same post from which he proceeded on leave.

Simla-2, the 18th March, 1971

No. 10-5/67-Apptt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898) the Governor, Himachal Pradesh is pleased to appoint Shri Keshav Chander Negi, Naib Tehsildar, Renuka, District Sirmur, to be the Magistrate of the 2nd Class with all the powers of a Magistrate 2nd Class, under the said Code, to be exercised within the local limits of Tehsil Renuka, District Sirmur with immediate effect.

HARSH GUPTA,
Joint Secretary.

APPOINTMENT DEPARTMENT NOTIFICATION

Simla-2, the 18th March, 1971

No. 10-5/69-Apptt.—In exercise of the powers vested in him under clause (b) of section 2 of the East Punjab Urban Rent Restriction Act, 1949, and all other powers enabling in this behalf, the Governor, Himachal Pradesh, in consultation with the High Court, is pleased to appoint Shri Surenendra Prakash, Sub-Judge 1st Class-cum-Judicial Magistrate, Kandaghat to perform the functions of a Controller under the said Act within the jurisdiction of Kandaghat Sub-Division, District Simla, with immediate effect.

HARSH GUPTA,
Joint Secretary.

COMMUNITY DEVELOPMENT AND PANCHAYATS DEPARTMENT OFFICE ORDER

Simla-2, the 18th March, 1971

No. 1-9/71-CD&P.—The Governor of Himachal Pradesh is pleased to accept the resignation of Shri O. P. Thakur, District Panchayat Officer, Mahasu with effect from the 16th February, 1971 afternoon the date from which he relinquished the charge of his office.

P. K. MATTOO,
Secretary (Panchayats).

EDUCATION DEPARTMENT NOTIFICATIONS

Simla-2, the 11th March, 1971

No. 1-90/69-Sectt. Edu. I.—In continuation of this Government notification of even number, dated the 10th June, 1970, the Governor, Himachal Pradesh in consultation with the Union Public Service Commission *vide* their letter No. F. 2/6 (9)/70- A. IV, dated the 20th January, 1971, is pleased to extend the period of *ad hoc*

appointments of the following Officers to the posts of Principals, Higher Secondary Schools, Education Department, Himachal Pradesh in the scale of Rs. 250-25-350/25-750 (Class II Gazetted), for a further period upto the 28th February, 1971 or till the posts are filled on a regular basis after the finalization of the integrated seniority list, whichever is earlier:—

1. Miss Jiwan Shukla.
2. Miss K. Chopra.
3. Miss R. R. Takkur.

Simla-2, the 20th March, 1971

No. 1-212/70-Sectt. Edu. I.—The Governor, Himachal Pradesh is pleased to retire Shri Hans Raj Kataria, Superintendent (Gazetted), Directorate of Education, Himachal Pradesh, Simla-1, on his attaining the age of superannuation, with effect from the 25th March, 1971 forenoon.

Simla-2, the 22nd March, 1971

No. 1-314/70-Sectt. Edu. I.—The Governor, Himachal Pradesh, is pleased to order that the existing date of birth "3-6-1913" entered in the Service Book of Shri B. R. Bhardwaj, Senior Lecturer, Government College, Solan, be altered to 30th April, 1914, as there is a bonafide clerical mistake in the conversion of his date of birth from Bikrami Era to Christian Era.

By order,
PRAKASH CHAND,
Secretary.

FINANCE DEPARTMENT NOTIFICATIONS

Simla-2, the 26th February, 1971

No. 12-2/69-Fin. (R&E).—In supersession of all previous orders issued in this behalf, the Governor, Himachal Pradesh is pleased to declare the Director of Panchayati Raj-cum-Director of Community Development, Himachal Pradesh as Head of Department and Controlling Officer under the Head of Accounts 71—Miscellaneous, H—Charges in Connection with the Village Panchayats Act as well as "Q—Loans and Advances by State and Union Territory Governments".

2. He will also function as Head of Office in respect of the Heads of Accounts under which the Agricultural Production Commissioner has been declared as the Head of Department.

Simla-2, the 26th February, 1971

No. 12-2/69-Fin. (R&E).—In supersession of all previous orders issued in this behalf, the Governor, Himachal Pradesh is pleased to declare the Agricultural Production Commissioner, Himachal Pradesh as Heads of Department and Controlling Officer in respect of the following Heads of Accounts:—

MAJOR HEADS:

- (1) 19—General Administration C—Sectt. and Attached Offices-C-1—Civil Sectt.-C-1(2)—Community Projects Head Quarters Staff.
- (2) 37—Community Development Projects, National Extensions Service and Local Development Works.
- (3) 39—Miscellaneous, Social and Developmental Organisations:
D—Miscellaneous-D-5—Rural Housing Cell.
- (4) 94—Capital Outlay on the Improvement of Public Health:
A—Water Supply and Sanitation Scheme A-1—Water Supply Scheme.

(5) Q—Loans and Advances by State and Union Territory Governments.

Simla-2, the 17th March, 1971

No. 12-2/69-Fin. (R&E).—The Governor, Himachal Pradesh is pleased to declare the Deputy Secretary (Finance) to the Government of Himachal Pradesh as the Head of Department and Controlling Officer to exercise the financial powers of Head of Departments, declared as such under S.R. 2 (10), under the following Head of Account:—

71—Miscellaneous—

I—Miscellaneous—Unforeseen Charges—1-16—State Lotteries.

Simla-2, the 17th March, 1971

No. 12-1/69-Fin. (R&E).—In supersession of all previous orders issued in this behalf, the Governor, Himachal Pradesh is pleased to declare the Commissioner for Transport and Tourism, Himachal Pradesh, as Head of Department and Controlling Officer in respect of the following Heads of Accounts:—

(1) 39—Miscellaneous—

Social and Developmental Organisation—
E—Tourism Organisations.

(2) 57—Road and Water Transport Schemes—

A—Road Transport.

(3) 71—Miscellaneous—

I—Miscellaneous and Unforeseen Charges—

I-10—Grants of Scholarship under free flying training schemes.

By order,

M. M. SAHAI SRIVASTAVA,
Secretary.

OFFICE ORDER

Simla-2, the 17th March, 1971

No. Fin. 10-381/57-II.—In exercise of the powers vested in him, the Governor, Himachal Pradesh is pleased to declare the Deputy Commissioner, Kulu as Controlling Officer for the purposes of countersigning the T.A. claims etc., in respect of the staff of Civil Supply Department under Head "26—Miscellaneous Department: A—Miscellaneous-A (3) Civil Supplies Departments with immediate effect.

M. M. SAHAI SRIVASTAVA,
Secretary.

LABOUR DEPARTMENT

NOTIFICATION

Simla-4, the 24th February, 1971

No. 10-53/70-SI.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act XIV of 1947), the Governor, Himachal Pradesh, is pleased to publish the following award of the Presiding Officer, Labour Court, Himachal Pradesh, Simla in respect of the dispute between Shri Babu Hussain and 26 others *versus* Management of M/s. R. J. Shah and Company, Giri Nagar, Sirmur district.

In the Court of Shri Rajendra Nath Aggarwal, Labour Court, Himachal Pradesh camp at Nahan.

Industrial Ref. No. 10-Sir. 2/of 1970.

Shri Babu Hussain and 26 others.

Versus

Management of M/s. R. J. Shah and Company, Giri Bata Sirmur district, Himachal Pradesh.

ORDER

The Management of M/s R. J. Shah and Company, Giri Nagar terminated the services of 26 workmen. A dispute arose between the management and the workmen about the legality of the dismissal of 26 workmen. By a notification, dated the 10th September, 1970, the Lieutenant Governor (Administrator), Himachal Pradesh referred the following matter for adjudication of the Labour Court:

'How far the action of the Management of M/s R. J. Shah and Company, Girinagar, District Sirmur in terminating the services of 26 workmen (list attached) is justified in Law? If not, to what relief/exact amount of compensation they are entitled to?

2. Notices were issued to the Management and the workmen for 19th September, 1970. On the date fixed no one appeared on behalf of the Management and the workmen. Fresh notice was issued to the management for 14th October, 1970. Shri Ishwar Chander Gupta, Advocate, states that there has been a compromise between the workmen and the management and the 26 workmen who were dismissed have already been reinstated. This reference has become infructuous. A copy of my order be sent to Shri P. K. Mattoo, Secretary to the Government of Himachal Pradesh. Announced.

Nahan, the 14th October, 1970.

Sd/-
Labour Court.

LIST OF WORKMEN

1. Shri Babu Hussain.
2. Shri Bheemsha.
3. Shri Subhanj.
4. Shri Gopal Krishanan Nair.
5. Shri Pushparajan.
6. Shri K. Vasudevan.
7. Shri P. Satyan.
8. Shri Balaraman, Clerk.
9. Shri Sahadva.
10. Shri Rukmana.
11. Shri Ismail.
12. Shri Velu.
13. Shri Ramzan.
14. Shri Joytinath.
15. Shri Sharanap.
16. Shri P. P. Balachandram.
17. Shri Jayana.
18. Shri Dharamrajan.
19. Shri Baby.
20. Shri Mahadev Gopal.
21. Shri Kashi Pershad.
22. Shri Madhukar.
23. Shri Razzak.
24. Shri Vella.
25. Shri Daniel.
26. Shri Ravidndern Nair.

By order,

RAJINDER CHAUDHRY,
Deputy Secretary.

REVENUE DEPARTMENT

NOTIFICATION

Simla-2, the 18th March, 1971

No. 9-1/71-Rev. II.—In pursuance of sub-section (1) of section 4 of the Himachal Pradesh, Consolidation of Holdings Act, 1953 the Governor, Himachal Pradesh is pleased to notify that Consolidation Operations in respect of 41 villages of Bilaspur District and 7 Villages

of Tehsil Arki, District Mahasu, described in the list enclosed which were under Consolidation operations vide notification shown against each village have been closed.

By order,
S. R. MAHANTAN,
Secretary.

TRANSPORT DEPARTMENT NOTIFICATION

Simla-2, the 20th March, 1971

No. 19-10/69-(Tpt.)—The Governor of Himachal Pradesh is pleased to constitute a Special Condemnation Board for condemning H.G.T. vehicles, which have not completed their life or covered prescribed condemnation mileage comprising the following officers:—

- | | | |
|------------------------------|----|----------|
| (1) Deputy Secretary Finance | .. | Chairman |
| (2) Under Secretary (P.W.D.) | .. | Member |

- | | | |
|--|----|----------|
| (3) Deputy General Manager, H.G.T. | .. | Convenor |
| (4) Chief Accounts Officer, H.G.T. | .. | Member |
| (5) Regional Manager of the H.G.T. Region concerned | .. | Member |
| (6) Executive Engineer, P.W.D. of the area where the headquarters of the H.G.T. Region are located | .. | Member |
| (7) G.A. to the D.C. of the district where the Headquarters of the H. G. T. Region are located | .. | Member. |

2. The Special Condemnation Board will make recommendations to the Government through the Commissioner for Transport and Tourism, Himachal Pradesh in respect of those Vehicles of Himachal Government Transport which have not completed their life or covered prescribed mileage.

By order,
P. K. MATTOO,
Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

REVENUE DEPARTMENT (CONSOLIDATION OF HOLDINGS) NOTIFICATION

Simla-4, the 22nd March, 1971

No. PAW. 745-50.—In exercise of the powers under sub-section 2 of section 14 of the East Punjab, Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, as delegated to me by the Himachal Pradesh, Government notification No. 3-11/67, Rev. I, dated the 8th April, 1969, I, Bishan Dass, Director, Consolidation of Holdings, Himachal Pradesh appoint Shri Ram Rattan as Consolidation Officer, with headquarters at Una, in respect of the following estates of Una tehsil, notified under section 14 (1) on the dates mentioned against each estate, for the purpose of performing all the functions of the said officer under the provisions of the

said Act, with effect from 1st October, 1970.

District: KANGRA

Tehsil: UNA

Sl. No.	Name of village	No. Had Bast	Total area in acres	No. and date of Notification u/s 14.1
1	2	3	4	5
1.	Sanghnai	137	3748	9 (4)/68 Rev. II, dated 30-10-1968.
2.	Khad	181	3926	57G/2435, dated 13th June, 1969.
3.	Nangal	447	300	57G/2435, dated 13th June, 1969.

BISHAN DASS,
Director.

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेंशियल कमिशनर तथा कमिशनर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

LABOUR DEPARTMENT NOTIFICATION

Simla-4, the 26th February, 1971

No. 2-27/69-SI.—In exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (Central Act 11 of 1948), the Governor of Himachal Pradesh is pleased to make the following amendments in the Himachal Pradesh Minimum Wages Rules, 1959, the same having been previously published vide this department notification No. 2-27/69-SI, dated the 14th September, 1970.

RULES

(1) In the Himachal Pradesh Minimum Wages Rules, 1959:—

- after sub-rule 5 of rule 26, the following sub-rule shall be inserted, namely:—
- A register of employees shall be maintained by every employer at the work spot in Form X;
- After Form IX, the following Form shall be inserted, namely:—

FORM X

REGISTER OF EMPLOYEES

[Rule 26 (6)]

Name of Establishment.....

Name of owner/employer.....

- Sl. No.
- Name and surname of employee.
- Age and sex.
- Father's Husband's name.
- Nature of employment/designation.
- Permanent address of employee (Village, District and Thana).
- Date of commencement of employment.
- Date of termination or leaving of employment.
- Signature or thumb impression of employees.

By order,
Sd./-
Deputy Secretary.

WELFARE DEPARTMENT NOTIFICATION

Simla-2, the 17th March, 1971

No. 22-3/69-Wel. Sectt.—In exercise of the powers conferred by sections 4 and 10 of the Himachal Pradesh Transfer of Land (Regulation) Act, 1968, the Governor, Himachal Pradesh is pleased to make the following amendments in the Himachal Pradesh Transfer of Land (Regulation) Rules, 1969:—

AMENDMENTS

In the said Rules:—

(1) For the existing Rule 5 (a), the following shall be substituted, namely:—

“5 (a) After the enquiry has been made, the Enquiry Officer, who shall not be below the rank of the Sub-Divisional Magistrate or Revenue Assistant, shall return the application to the Deputy Commissioner along with his recommendations.”

(2) For the existing Form I appended to the said Rules, the following Form shall be substituted, namely:—

FORM I

Application for the Transfer of land under Rules 3 (a) of the Himachal Pradesh Transfer of Land (Regulation) Rules, 1969

1. Name of the applicant (in block letters).....
2. Father's name.....
3. Address
4. Tribe of the applicant.....
5. Description of land to be transferred, (Area of land, field number, village, wet or dry areas).....
6. Total area of land held by the applicant at the time of submitting application, with location of each piece of land along with name of village.....

7. The number of family members dependent on him:
 - (i) Description of each family member with age and his relationship.....
 - (ii) Age and physical condition of the applicant..
8. Total income of the applicant per annum from land and other sources separately.....
9. Name, caste and residence of the person(s) to whom the land is to be alienated.....
10. Kind of transfer proposed by the applicant (mortgage, sale etc.) and his object in asking for the transfer
11. Present market value of the land proposed to be alienated
12. Amount at which the applicant proposed to make the transfer.....
13. Whether there is not other Scheduled Tribe prepared to have the land alienated in his favour for the market value of the land.....
14. On how many former occasions has the applicant applied for permission under section 4 (3) of the Act.

Station.....

Signature of the
applicant.

NR.—The assessment of the market value will be assessed by the Deputy Commissioner concerned in accordance with the rule/instructions on the subject.

Orders of the Deputy Commissioner

Station.....
Dated.....

Signature.
Designation.

By order,
PRAKASH CHAND,
Secretary.

भाग 4—स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

शून्य

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

बमरदालत श्री हरि दत्त कैथला, सब-जज, प्रथम श्रेणी, धर्मशाला
दिवानी मुकदमा नं० 61 आफ 1970

बिधी चन्द बनाम प्रमोद सिंह वगैरा

दावा इस्तकारहक

बनाम:— श्री रसील सिंह पुत्र रामसिंह, जान राजपूत, सकिन लग बघवां तथा गरली, तहसील देहग, जिला कांगड़ा प्रतिवादी नं० 2.
मुकदमा मुन्दरजा उनशन बाला से प्रतिवादी नं० 2 श्री रसील सिंह
वपोश है जिसकी तामील आसान तरीका से होनी कठिन है।

इस्तहार अखबार वनाम श्री रसील सिंह जारी किया जाता है कि वह जहां कहीं भी हो तिथि 11-5-1971 को प्रातः 10 बजे अदालत हजा में आन कर जो उजर निस्वत दावा रखता हो पेश अदालत हजा असालतन या बकालतन करे वरना कार्रवाई एकतरफा अमल में लाई जावेगी।

मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 16-3-1971 को जारी किया गया।

मोहर।

हरि दत्त, कैथला,
सब-जज।

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

(देखिय पृष्ठ 437—459)

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

शून्य

अनुपरक

शून्य

PART VI

LAW DEPARTMENT

NOTIFICATION

Simla-4, the 7th March, 1964

No. 1-1/64-LR.—The following Acts passed by the Parliament of India and published in the Gazette of India, Extraordinary Part II, Section I, dated 30th December, 1963, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Unit Trust of India Act, 1963 (52 of 1963);
2. The Companies (Amendment) Act, 1963 (53 of 1963);
3. The Preventive Detention (Continuance) Act, 1963 (51 of 1963);
4. The Delhi Development (Amendment) Act, 1963 (56 of 1963);
5. The Central Boards of Revenue Act, 1963 (54 of 1963);
6. The Banking Laws (Miscellaneous Provisions) Act, 1963 (55 of 1963);

S. R. MAHANTAN,
Under Secretary.

Assented to on 30-12-63

THE UNIT TRUST OF INDIA ACT, 1963

ACT No. 52 of 1963

AN ACT

to provide for the establishment of a Corporation with a view to encouraging saving and investment and participation in the income, profits and gains accruing to the Corporation from the acquisition, holding, management and disposal of securities.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Unit Trust of India Act, 1963.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. *Definitions.*—In this Act, unless the context otherwise requires,—
 - (a) “Board” means the Board of Trustees constituted under section 10 or section 41;
 - (b) “contributing institution” means an institution which is, for the time being, a contributory to the initial capital of the Trust under section 4;
 - (c) “contribution certificate” means a certificate issued under section 6;
 - (d) “initial capital” means the capital of the Trust referred to in section 4;
 - (e) “life insurance corporation” means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956; (31 of 1956)
 - (f) “prescribed” means prescribed by regulations made under this Act;
 - (g) “reserve bank” means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);
 - (h) “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

- (i) “securities” means shares, debentures, bonds and other stock of any company or other body corporate, whether incorporated in India or outside, and securities issued by any local authority in India, or by the Government of, or a local authority in, any such country outside India as may be approved by the Reserve Bank and includes Government security as defined in section 2 of the Public Debt Act, 1944 (18 of 1944), but does not include mortgages on immovable property;
- (j) “state bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);
- (k) “subsidiary bank” has the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
- (l) “Trust” means the Unit Trust of India established under section 3;
- (m) “trustee” means a trustee appointed, nominated or elected under section 10 or section 41;
- (n) “unit” means a unit issued under the unit scheme;
- (o) “unit capital” means the aggregate of the face value of the units sold under the unit scheme and outstanding for the time being;
- (p) “unit certificate” means a certificate issued to the purchaser of a unit under the unit scheme;
- (q) “unit holder” means a person for the time being recognised by the Trust as the holder of a unit certificate under the unit scheme;
- (r) “unit scheme” means a scheme made under section 21.

CHAPTER II

ESTABLISHMENT OF THE UNIT TRUST OF INDIA AND THE INITIAL CAPITAL THEREOF

3. *Establishment and incorporation of Unit Trust of India.*—(1) The Central Government shall, by notification in the Official Gazette, establish a Corporation by the name of the Unit Trust of India which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property and to contract, and may, by the said name, sue or be sued.

(2) The head office of the Trust shall be at Bombay or at such other place as the Reserve Bank may, by notification in the Official Gazette, specify.

(3) The Trust may establish local offices, branches or agencies at any places in or outside India.

4. *Initial capital of Trust.*—(1) Subject to the provisions of this Act, the initial capital of the Trust shall be five crores of rupees divided in the form of certificates each of which shall be of such face value as may be prescribed and contributed in the manner hereinafter provided.

(2) Before such date as the Central Government may, by notification in the Official Gazette, specify in this behalf—

- (a) the Reserve Bank shall contribute two and a half crores of rupees;
- (b) the Life Insurance Corporation shall contribute seventy-five lakhs of rupees;
- (c) the State Bank and the subsidiary banks shall contribute seventy-five lakhs of rupees, the amount which the State Bank and each subsidiary bank shall contribute being determined by the State Bank;
- (d) other institutions, namely, scheduled banks other than those referred to in clause (c) and such classes of financial institutions as may be notified by the

Central Government in the Official Gazette in this behalf may contribute one crore of rupees.

(3) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub-section (2) exceeds one crore of rupees, the Board shall refund the excess amount to such institutions, so however, that the amount to be refunded to each such institution bears, as far as possible, the same proportion to the contribution made by it as the excess amount bears to the aggregate of the contributions made by such institutions.

(4) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub-section (2) is less than one crore of rupees, the Reserve Bank shall contribute the deficiency within thirty days of the date specified under sub-section (2):

Provided that the Reserve Bank may, thereafter, transfer the whole or any part of its contribution under this sub-section to any institution referred to in clause (d) of sub-section (2).

(5) If at any time the Board is of opinion that the amount of the initial capital is in excess of the requirements of the Trust, it may refund the whole or any part of such capital to the contributing institutions:

Provided that where only a part is so refunded the amount to be refunded to each such institution shall bear, as far as possible, the same proportion to the contribution made by it as such part bears to the initial capital:

Provided further that for the purpose of any refund, the value of the initial capital shall be determined by the Board on such basis as the Central Government may specify in this behalf, regard being had to the real or exchangeable value thereof.

5. *Maintenance of register of contributories.*—The Board shall maintain in such manner as may be prescribed a register containing the names of the contributing institutions, the amount contributed by each such institution and such other particulars as may be prescribed.

6. *Issue of contribution certificates.*—(1) As soon as may be after the contribution has been made by any contributing institution under section 4, the Board shall issue to such contributing institution a contribution certificate or contribution certificates in such form and containing such particulars as may be prescribed.

(2) Where the whole or any part of the contribution has been refunded to any institution under sub-section (5) of section 4, that institution shall, as soon as may be after the refund has been made, forward the contribution certificate or certificates to the Board for cancellation or amendment, as the case may be, and the Board shall cancel or amend the certificate or certificates accordingly.

7. *Right of transfer of contribution certificates in certain cases.*—(1) Any contributing institution referred to in clause (d) of sub-section (2) of section 4 may, in the prescribed manner, transfer a contribution certificate to any other institution referred to in that clause and thereupon such other institution shall be deemed to be a contributing institution for the purposes of this Act.

(2) Save as provided in sub-section (1), a contribution certificate shall not be transferred.

8. *Rights and liabilities of holders of contribution certificates.*—Every holder of a contribution certificate shall have all the rights and be subject to all the liabilities conferred or imposed on a contributing institution by or under this Act.

CHAPTER III

MANAGEMENT OF THE TRUST

9. *Management.*—(1) The general superintendence,

direction and management of the affairs and business of the Trust shall vest in a Board of trustees which may exercise all powers and do all acts and things which may be exercised or done by the Trust.

(2) The Board shall, in discharging its functions under this Act, act on business principles, regard being had to the interest of the unit holders.

10. *Board of trustees.*—The Board of Trustees shall consist of the following, namely:—

(a) the Chairman to be appointed by the Reserve Bank;

(b) four trustees to be nominated by the Reserve Bank, of whom not less than three shall be persons having special knowledge of, or experience in, commerce, industry, banking, finance or investment;

(c) one trustee to be nominated by the Life Insurance Corporation;

(d) one trustee to be nominated by the State Bank;

(e) two trustees to be elected in the prescribed manner by the contributing institutions referred to in clause (d) of sub-section (2) of section 4; and

(f) an executive trustee to be appointed by the Reserve Bank:

Provided that if the appointment of the Chairman is whole-time, it shall not be necessary to appoint an executive trustee:

Provided further that on the first constitution of the Board, the trustees referred to in clause (e) shall be nominated by the Reserve Bank and shall hold office for a period of twelve months from the date of their nomination or until two trustees are elected under the said clause, whichever may be earlier.

11. *Term of office of trustees.*—(1) A trustee nominated under clause (b) of section 10, if he is an officer of the Reserve Bank, or a trustee nominated under clause (c) or clause (d) of that section shall hold office during the pleasure of the authority nominating him.

(2) A trustee nominated under clause (b) of section 10, if he is not an officer of the Reserve Bank, or a trustee elected under clause (e) of that section shall hold office for four years and thereafter until his successor is duly nominated or elected.

(3) A casual vacancy in the office of a trustee referred to in sub-section (2) or in the office of a trustee nominated under the second proviso to section 10 shall be filled by election or nomination, as the case may be, and the trustee so elected or nominated shall hold office for the un-expired portion of the term of his predecessor:

Provided that no such vacancy occurring within three months of the date of the expiry of the normal term of office of such trustee need be filled under this sub-section.

(4) A trustee nominated under the second proviso to section 10 or a trustee nominated in his place under sub-section (3) of this section shall be deemed to be a trustee elected under clause (e) of section 10.

(5) A person who holds, or who has held, office as a trustee shall, subject to the other provisions of this Act, be eligible for re-nomination or re-election, as the case may be.

12. *Disqualification for being a trustee.*—A person shall not be capable of being nominated or elected as a trustee if—

(a) he is, except in the case of the Chairman or the executive trustee, an officer or other employee of the Trust; or

- (b) he is, or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (c) he is of unsound mind and stands so declared by a competent court; or
- (d) he has been convicted of an offence which, in the opinion of the Reserve Bank, involves moral turpitude.

13. Vacation and resignation of office of trustee.—(1) If a trustee—

- (a) becomes subject to any of the disqualifications mentioned in section 12; or
- (b) is absent without leave of the Board from more than three consecutive meetings thereof; or
- (c) being a trustee elected or deemed to be elected under clause (e) of section 10 becomes an officer or other employee of Government or of the Reserve Bank, State Bank, a subsidiary bank, or the Trust; his office shall thereupon become vacant.

(2) A trustee nominated under clause (b) of section 10 who is not an officer of the Reserve Bank or a trustee elected or deemed to be elected under clause (e) of that section may by letter addressed to the Board resign his office and on such resignation being accepted by the Board shall be deemed to have vacated his office.

14. Chairman and executive trustee.—(1) The appointment of a Chairman or of an executive trustee may be either whole-time or part-time:

Provided that if the appointment of the Chairman is part-time, the appointment of the executive trustee shall be whole-time.

(2) The Chairman or the executive trustee shall—

- (a) hold office for such term not exceeding five years as the Reserve Bank may specify;
- (b) receive such salary or allowances or both from the Trust and be governed by such terms and conditions of service as the Reserve Bank may determine; and
- (c) perform such functions as the Board may entrust or delegate to him

15. Casual vacancy in office of Chairman or executive trustee.—If the Chairman or the executive trustee is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the Reserve Bank may nominate another person to act in his place until the date on which the Chairman or the executive trustee, as the case may be, resumes his duties.

16. Fees and allowances of certain trustees.—Trustees, other than the Chairman and the executive trustee, shall be paid such fees and allowances for attending the meetings of the Board or of any of its committees and for attending to any other work of the Trust, as may be prescribed:

Provided that no fees shall be payable to a trustee who is an officer of Government or of any Corporation established by any law for the time being in force.

17. Meetings of Board.—(1) The Board shall meet not less than six times a year and at least once every two months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or, if for any reason he is unable to attend any meeting of the Board, any other trustee nominated by him in this behalf or, in the event of such nominated trustee also being unable to attend the meeting or no such nomination having been made by the Chairman, any other trustee elected by the trustees present at the meeting from among themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the trustees present and voting, and, in the event of equality of votes, the Chairman or, in his absence, the person presiding, shall have a second or casting vote.

18. Executive Committee and other committees.—(1) There shall be an Executive Committee which shall consist of—

- (a) the Chairman of the Board,
- (b) where an executive trustee has been appointed by the Reserve Bank, such executive trustee, and
- (c) two other trustees nominated in this behalf by the Reserve Bank.

(2) The Chairman of the Board shall be the Chairman of the Executive Committee.

(3) Subject to such general or special directions as the Board, may from time to time give the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(4) The Board may constitute such other committees whether consisting wholly of trustees or wholly of other persons or partly of trustees and partly of other persons as it thinks fit and for such purpose as it may decide.

(5) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(6) The members of a committee (other than the trustees) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Trust, as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government or of any Corporation established by any law for the time being in force.

CHAPTER IV

POWERS AND FUNCTIONS OF THE TRUST

19. Business of Trust.—(1) The Trust may carry on and transact any of the following kinds of business, namely:—

- (a) selling and purchasing units;
- (b) investing in, acquiring, holding or disposing of, securities and exercising and enforcing all powers and rights incidental thereto;
- (c) keeping money on deposit with scheduled banks or with such other institutions as may be prescribed;
- (d) generally, doing all such matters and things as may be incidental to or consequential upon the discharge of its functions under this Act.

(2) The Trust shall not take on lease, purchase or otherwise acquire except for its own use any immovable property or any interest therein.

20. Borrowing powers.—(1) The Trust may borrow from any authority or person, not being Government or the Reserve Bank, against such security and on such terms and conditions as may be agreed upon.

(2) The Trust may borrow money from the Reserve Bank repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India.

(3) If the Board is of opinion that a situation has arisen in which it is necessary or expedient for the Trust to

borrow money from the Reserve Bank against securities other than those mentioned in sub-section (2), the Trust may borrow money from that bank repayable on demand or within a period not exceeding eighteen months from the date on which the money is so borrowed against its own bonds which the Trust may issue with the approval of the Central Government.

(4) The bonds issued by the Trust under sub-section (3) shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Central Government at the time the bonds are issued.

21. Unit scheme.—(1) For the purpose of providing facilities for participation in the income, profits and gains arising out of the acquisition, holding, management or disposal of securities by the Trust, the Board shall make a unit scheme.

(2) Subject to the provisions of this Act, and the regulations made under section 43, a scheme made under sub-section (1) may provide for—

- (a) the issue of units and the face value of each unit, which shall not be less than ten rupees or more than one hundred rupees;
- (b) the form and manner in which an application may be made for the purchase of a unit from the Trust;
- (c) the manner in which payment may be made for purchasing a unit from the Trust;
- (d) the issue of unit certificates and the form and manner in which such certificates may be issued;
- (e) the issue of duplicate of any unit certificate in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;
- (f) the procedure for determining the value at which the units may be sold or purchased, from time to time, by the Trust;
- (g) the recognition of persons as unit holders;
- (h) the persons to whom, the time at which and the manner in which any payments in respect of a unit shall be made by the Trust;
- (i) the preparation and maintenance of a register, if any, of unit holders;
- (j) the conditions, if any, subject to which a unit holder may transfer the unit;
- (k) any other matter which the Trust may consider to be necessary or proper for the effective implementation of the scheme.

(3) The Board may, from time to time, add to or otherwise amend the scheme made under sub-section (1).

(4) The scheme made under sub-section (1) and every amendment thereof under sub-section (3) shall be notified in the Official Gazette.

CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME

22. Allocation of income, interest and other expenses.—(1) The total gross income of the Trust in any year shall be allocated to the initial capital and the unit capital in the same proportion as the former bears to the latter at the end of that year.

(2) The interest payable for any year for any borrowings made by the Trust and the total amount of other expenses incurred by the Trust in that year shall be allocated and charged to the initial capital and the unit capital in the same proportion as is referred to in sub-section (1):

Provided that if the amount of expenses other than interest allocated to the unit capital is more than five per cent of the gross income allocated to the unit capital

in that year, only an amount equal to such five per cent shall be charged to the unit capital and the rest of the total amount of expenses other than interest shall be charged to the initial capital.

23. Distribution of income.—(1) The gross income allocated to the initial capital in any year reduced by the interest and the amount of other expenses charged for that year to the initial capital may be distributed in the prescribed manner among the contributing institutions in proportion to their contributions to the initial capital.

(2) The gross income allocated to the unit capital in any year reduced by the interest and the amount of other expenses charged for that year to the unit capital may, but not less than ninety per cent of the gross income so reduced shall, be distributed to the unit holders in respect of that year.

24. Distribution of income after refund of initial capital.—Notwithstanding anything contained in section 22 or section 23, where the whole of the initial capital has been refunded to the contributing institutions, the gross income in any year reduced by the interest payable for that year for any borrowings made by the Trust and the total amount of other expenses incurred by the Trust in that year may, but not less than ninety per cent of the gross income so reduced shall, be distributed to the unit holders in respect of that year.

25. Definitions of year.—In this Chapter “year” means the period in respect of which the books and accounts of the Trust are balanced and closed under sub-section (2) of section 26.

CHAPTER VI

ACCOUNTS AND AUDIT

26. Preparation of balance-sheet etc. of Trust.—(1) The balance-sheet and accounts of the Trust shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Trust to be balanced and closed each year as on such date as may be prescribed.

27. Audit.—(1) The affairs of the Trust shall be audited by an auditor duly qualified to act as an auditor under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the Trust and shall receive such remuneration as the Trust may fix.

(2) The auditor shall be supplied with a copy of the annual balance-sheet of the Trust and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Trust and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Trust.

(3) The auditor may, in relation to such accounts, examine any trustee or any officer or other employee of the Trust and shall be entitled to require from the Board or officers or other employees of the Trust such information and explanation as he may think necessary for the performance of his duties.

(4) The auditor shall make a report to the Trust upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Trust and in case he had called for any information or explanation from the Board or any officer or other employee of the Trust, whether it has been given and whether it is satisfactory.

28. Publication of annual accounts and reports.—The Trust shall furnish to each of the contributing institutions within four months from the date on which its accounts are balanced and closed in respect of any year a copy of the balance-sheet and accounts together with a copy of the auditor's report and shall publish the same in the Official Gazette.

29. Furnishing of information to Reserve Bank.—The Trust shall furnish, from time to time, to the Reserve Bank such information as the Reserve Bank may require.

CHAPTER VII

MISCELLANEOUS

30. Power of Reserve Bank to give directions.—In the discharge of its functions under this Act, the Trust shall be guided by such directions in matters of policy involving public interest as the Reserve Bank may give to it in writing, and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the Reserve Bank thereon shall be final.

31. Staff of Trust.—(1) The Trust may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Trust to utilise, and for the Reserve Bank to make available, the services of such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Trust and the Reserve Bank.

32. Income-tax and other taxes.—(1) Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), the Super Profits Tax Act, 1963 (14 of 1963), or in any other enactment for the time being in force relating to income-tax super-tax or super profits tax, or any other tax on income, profits or gains—

- (a) the Trust shall not be liable to pay income-tax, super-tax, super profits tax or any other tax in respect of any income, profits or gains derived by it from any source;
- (b) where the income received by a unit holder, being an individual, from the Trust in respect of units does not exceed one thousand rupees, such income, and where such income exceeds one thousand rupees, a sum of one thousand rupees, shall be excluded in computing the total income of the unit holder for purposes of income-tax and in the case of any such unit holder who would not be liable to super-tax but for the inclusion of such income in his total income, also for purposes of super-tax; and
- (c) where a contributing institution is liable to be assessed to super profits tax under the Super Profits Tax Act, 1963 (14 of 1963), in respect of its own income, profits or gains and receives any sum from the Trust under this Act in respect of its contribution to the initial capital, such sum as reduced by the amount of any income-tax and super-tax payable in respect thereof shall be excluded from the total income of the said institution in computing its chargeable profits for the purposes of super profits tax.

(2) Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961 (43 of 1961)—

- (a) no deduction of income-tax or super-tax shall be made on any interest or dividend payable to the Trust in respect of any securities or shares owned by it or in which it has full beneficial interest; and

(b) no deduction of income-tax shall be made by the Trust from the income distributed by it to a unit holder being an individual.

(3) Subject to the foregoing sub-sections, for the purposes of the Income-tax Act, 1961 (43 of 1961),—

- (a) any distribution of income received by a unit holder from the Trust shall be deemed to be his income by way of dividends; and
- (b) the Trust shall be deemed to be a company.

33. Act 18 of 1891 to apply in relation to Trust.—The Bankers' Books Evidence Act, 1891 shall apply in relation to the Trust as if it were a bank as defined in section 2 of the said Act.

34. Declaration of fidelity and secrecy.—Every trustee, auditor, officer or other employee of the Trust or any employee of the Reserve Bank whose services are utilised by the Trust under section 31 shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

35. Defects in appointments not to invalidate acts etc.—(1) No act or proceeding of the Board or of any committee of the Trust shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or Committee.

(2) No act done by any person acting in good faith as a trustee shall be deemed to be invalid merely on the ground that he was disqualified to be a trustee or that there was any other defect in his appointment.

36. Indemnity of trustees.—(1) Every trustee shall be indemnified by the Trust against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

(2) A trustee of the Board shall not be responsible for any other trustee, or for any officer or other employee of the Trust, or for any loss or expenses resulting to the Trust, from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Trust or the insolvency or wrongful act of any debtor or any person under obligation to the Trust or anything done in good faith in the execution of the duties of his office or in relation thereto.

37. Protection of action taken under this Act.—No suit or other legal proceeding shall lie against the Trust or the Reserve Bank or any trustee or any officer or other employee of the Trust or the Reserve Bank or any other person authorised by the Trust to discharge any functions under this Act for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

38. Delegation of powers.—The Board may, by general or special order, delegate to any officer of the Trust, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

39. No trust to be taken notice of and protection from attachment.—(1) No notice of a trust, express, implied or constructive, shall be receivable by the Trust.

(2) The amount standing to the credit of a contributing institution shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the contributing institution.

40. Repayment of contribution in case of winding up of contributing institution.—(1) In the event of a contributing institution referred to in clause (d) of sub-section (2) of section 4 being wound up, the Trust shall, on a demand in that behalf made by the authority in charge of the

winding up, pay to such authority an amount equivalent to the value of the contribution to the initial capital made by that institution.

(2) The value of the contribution shall be determined by the Board on such basis as the Central Government may specify, regard being had to the real or exchangeable value of such contribution.

41. Power of Central Government to reconstitute Board.—(1) Notwithstanding anything contained in section 10 or section 11, where the whole of the initial capital has been refunded to the contributing institutions, the Central Government may, after consultation with the Reserve Bank, by order, provide for the reconstitution of the Board.

(2) An order made under sub-section (1) may provide for all or any of the following matters, namely:—

- (a) the number of trustees that will constitute the Board;
- (b) the manner in which they shall be chosen;
- (c) their term of office;
- (d) filling of casual vacancies;
- (e) such incidental, consequential and supplementary matters as may be necessary to give effect to the order including the reconstitution of the executive committee or other committees.

(3) Every order made under this section shall be published in the Official Gazette and a copy thereof shall be laid before each House of Parliament as soon as may be after it is made.

42. Liquidation of Trust.—(1) The Trust shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

(2) In making such order, the Central Government shall, if the initial capital has not been wholly refunded, direct, among other things, that—

- (i) the value of the net assets of the Trust after paying off all its liabilities, other than those in respect of the initial capital and the unit capital shall be divided into two parts in the same proportion as the aggregate face value of all the units immediately prior to the date on which the Trust is placed in liquidation bears to the initial capital as on that date; and
- (ii) the first part shall be distributed among the contributing institutions in proportion to their respective contributions to the initial capital as on that date and the second part shall be distributed among the unit holders in proportion to the face value of the units held by them as on that date.

43. Regulations. (1) The Board may, with the previous approval of the Reserve Bank, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the form and manner of maintenance of the register of contributing institutions and the particulars to be contained therein;
- (b) the face value of a contribution certificate, its form and the particulars to be contained therein;
- (c) the manner of transfer of a contribution certificate;
- (d) the rights and liabilities of a contributing institution;
- (e) the holding and conduct of elections under this

Act, including the final decision on doubts or disputes regarding the validity of elections;

- (f) the fees and allowances that may be paid to the trustees;
- (g) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;
- (h) the fees and allowances that may be paid to the members of a committee, other than trustees;
- (i) the institutions with which money may be kept on deposit;
- (j) the manner of distribution of income to the contributing institutions;
- (k) the form and manner in which the balance-sheet and the accounts of the Trust shall be prepared and maintained;
- (l) the date on which the books of accounts of the Trust shall be balanced and closed each year;
- (m) the duties and conduct, salaries and allowances, and other conditions of service of officers and other employees of the Trust;
- (n) the establishment and maintenance of provident or other benefit funds for officers and other employees of the Trust; and
- (o) any other matter which is to be, or may be, prescribed.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Trust and any regulation so made may be altered or rescinded by the Board in the exercise of its powers under this Act.

44. Amendment of certain enactments.—The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein.

THE FIRST SCHEDULE

(See section 34)

DECLARATION OF FIDELITY AND SECRECY

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as trustee, auditor, officer or other employee (as the case may be) of the Unit Trust of India and which properly relate to the office or position held by me in the said Trust.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Unit Trust of India or to the affairs of any person having any dealing with the said Trust; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Unit Trust of India and relating to the business of the said Trust or the business of any person having any dealing with the said Trust.

Signed before me:

(Signature).

THE SECOND SCHEDULE

(See section 44)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934 (2 of 1934) amendments

1. Amendment of section 2.—In section 2, after clause (f), insert the following clause, namely:—

“(g) ‘Unit Trust’ means the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963.”

2. Amendment of section 17.—In section 17,—

(a) after clause (4BB), insert the following clause, namely:—

“(4BBB) the making to the Unit Trust of loans and advances—

(i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

(ii) repayable on demand or within a period of eighteen months from the date of such loan or advance against the security of the bonds of the Unit Trust issued with the approval of and guaranteed by the Central Government;”;

(b) after clause (4E), insert the following clause, namely:—

“(4F) contributing to the initial capital of the Unit Trust.”.

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947
(14 OF 1947)

Amendment

Amendment of section 2.—In section 2, in sub-clause (i) of clause (a), after “Deposit Insurance Corporation Act, 1961 or” insert the following namely:—

“the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, or”.

PART III

AMENDMENT TO THE INDUSTRIAL FINANCE CORPORATION ACT, 1948
(15 OF 1948)

Amendment

Substitution of new section for section 20.—For section 20, substitute the following, namely:—

“20. *Investment of funds.*—The Corporation may invest its funds in the securities of the Central Government or of any State Government and may, with the approval of the Central Government, contribute to the initial capital of the Unit Trust of India established under the Unit Trust of India Act, 1963.”.

PART IV

AMENDMENT TO THE STATE BANK OF INDIA ACT, 1955
(23 OF 1955)

Amendment

Amendment of section 33.—In section 33, after clause (xix a), insert the following clause, namely:—

“(xix aa) contributing to the initial capital of the Unit Trust of India established under the Unit Trust of India Act, 1963;”.

Assented to on 30-12-63

THE COMPANIES (AMENDMENT) ACT, 1963
ACT No 53 OF 1963

AN ACT

further to amend the Companies Act, 1956

Be it enacted by Parliament in the Fourteenth Year of

the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Companies (Amendment) Act, 1963.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Amendment of section 2.—In section 2 of the Companies Act, 1956 (1 of 1956) (hereinafter referred to as the principal Act),—

(a) after clause (10), the following clause shall be inserted, namely:—

“(10A) “Company Law Board” means the Board of Company Law Administration constituted under section 10E;”;

(b) after clause (49), the following clause shall be inserted, namely:—

“(49A) “Tribunal” means the Tribunal constituted under section 10A;”.

3. Insertion of new Sections after section 10 in Part I.—After section 10 of the principal Act, the following sections shall be inserted in Part I, namely:—

“10A. *Constitution of Tribunal.*—(1) The Central Government may, by notification in the Official Gazette, constitute a Tribunal consisting of as many members as it thinks fit, to exercise and discharge—

(a) the powers and functions conferred on such Tribunal by or under this Act;

(b) all or any of the powers and functions conferred on the Court by or under section 155, section 203 in so far as it relates to the granting of leave under that section, section 240, and sections 397 to 407, which the Central Government may, from time to time, by notification in the Official Gazette, specify:

Provided that where any powers and functions are or become exercisable by the Tribunal by virtue of this section, the Court shall not exercise those powers and functions and any reference to the Court in any of the sections, powers and functions of the Court whereunder have been conferred on the Tribunal, shall be construed as a reference to the Tribunal.

(2) The members of the Tribunal shall be persons who have, in the opinion of the Central Government, adequate knowledge of, and experience in,—

(a) law, or

(b) matters of accountancy, or

(c) administration or management of companies and law relating thereto.

(3) The Central Government shall appoint one of the members of the Tribunal having knowledge of, and experience in law, who—

(a) is or has been a Judge of a High Court, or

(b) is qualified for appointment as Judge of a High Court,

to be the chairman of the Tribunal.

(4) The chairman and other members of the Tribunal shall receive from the Central Government such remuneration, and shall be governed by such conditions of service as the Central Government may determine:

Provided that the remuneration of the chairman or any other member shall not be varied to his disadvantage after his appointment.

(5) Nothing in this section shall derogate from the powers and functions of the Court in relation to any proceeding pending before the Court immediately before such powers and functions are or become exercisable by the

Tribunal by virtue of this section and the Court shall dispose of such proceeding accordingly.

(6) The provisions of this Act shall apply in relation to the enforcement of any order of the Tribunal as if such order were an order of the Court under this Act.

Explanation.—In this section, “Court” means the Court as defined in sub-clause (a) of clause (11) of section 2 and, where the powers and functions have been conferred expressly by any section on a Judge of a High Court, includes such Judge.

10B. *Procedure of Tribunal.*—(1) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the chairman of the Tribunal from among the members thereof.

(2) Every such Bench shall consist of such number of members, not being less than two, as the Central Government may, by rules made under this Act, determine and at least one of such members shall be a person having knowledge of, and experience in, law.

(3) If during the course of any proceedings, any member of the Tribunal is for any reason unable to perform his functions or relinquishes his membership of the Tribunal, the Central Government may appoint another member in his place in accordance with the provisions of this Act and upon his joining the Tribunal the proceedings shall be continued as if he had been on the Tribunal from the commencement of the proceedings.

(4) In case of difference of opinion among the members of a Bench, the opinion of the majority shall prevail and orders of the Bench shall be expressed in terms of the views of the majority:

Provided that if the members of the Bench are equally divided in opinion on any point, they shall prepare a statement on the point and refer the same to the chairman of the Tribunal for the hearing of such point by one or more of the other members of the Tribunal and such point shall be decided according to the opinion of the majority of the members of the Tribunal who have heard it, including those who first heard it.

(5) Subject to the provisions of this Act and the rules made thereunder, the Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers and the discharge of its functions, including the places at which the Benches shall hold their sittings.

10C. *Powers of Tribunal.*—(1) The Tribunal shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:—

- (a) discovery and inspection of documents or other material objects producible as evidence,
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses,
- (c) compelling the production of documents or other material objects producible as evidence and impounding the same,
- (d) examining witnesses on oath,
- (e) granting adjournments,
- (f) reception of evidence taken on affidavit;
- (g) issuing commissions for the examination of witnesses, and summoning and examining *suo motu* any person whose evidence appears to the Tribunal to be material.

(2) Where the Tribunal has reason to believe that any place is used for the deposit or custody of any document or thing which may be material for the purposes of any proceeding before it, the Tribunal may by its warrant authorise and direct any police officer not below the rank of a sub-inspector

- (a) to enter that place with such assistance as may be required,
- (b) to search the same in the manner specified in the warrant,
- (c) to take possession of any documents or things therein found and to prepare a list of the same and to dispose of them in accordance with the provisions hereinafter contained.

(3) When in the execution of a search warrant under sub-section (2) any documents or things for which search is made are found, such documents or things, together with the list of the same, shall immediately be taken before the Tribunal.

(4) The provisions of the Code of Criminal Procedure 1898 (5 of 1898), shall, so far as may be, apply to a search directed, and a search warrant issued, under sub-section (2) as they apply to a search and a search warrant under section 98 of that Code.

(5) The Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898, and every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and for the purpose of section 196 of that Code.

10D. *Appeals against decisions etc. of the Tribunal.*—

(1) An appeal shall lie to the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, only on questions of law arising,—

- (a) in cases against managerial personnel falling under Chapter IVA of Part VI, out of any finding of the Tribunal under section 388D; and
- (b) in cases not falling under that Chapter, out of any decision, finding or order of the Tribunal.

(2) Every such appeal shall be heard by a Bench of not less than two Judges of the High Court.

(3) Every such appeal shall be filed within a period of sixty days from the date of communication to the appellant of the decision, finding or order of the Tribunal:

Provided that the appeal may be admitted after the expiry of the aforesaid period if the appellant satisfies the High Court that he had sufficient cause for not preferring the appeal within that period.

4. *Insertion of new Part IA after Part I.*—In the principal Act, after Part I, the following Part and section shall be inserted, namely:—

‘PART IA

BOARD OF COMPANY LAW ADMINISTRATION

10E. *Constitution of Board of Company Law Administration.*—(1) As soon as may be after the commencement of the Companies (Amendment) Act, 1963, the Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Board of Company Law Administration to exercise and discharge such powers and functions conferred on the Central Government by or under this Act or any other law as may be delegated to it by that Government.

(2) The Company Law Board shall consist of such number of members, not exceeding five, as the Central Government deems fit, to be appointed by that Government by notification in the Official Gazette.

(3) One of the members shall be appointed by the Central Government to be the chairman of the Company Law Board.

(4) No act done by the Company Law Board shall be called in question on the ground only of any defect in the

constitution of, or the existence of any vacancy in, the Company Law Board.

(5) The procedure of the Company Law Board shall be such as may be prescribed.

(6) In the exercise of its powers and discharge of its functions, the Company Law Board shall be subject to the control of the Central Government."

5. *Amendment of section 81.*—In section 81 of the principal Act,—

(a) for the proviso to sub-section (3), the following proviso shall be substituted, namely:—

“Provided that the terms of issue of such debentures or the terms of such loans include a term providing for such option and such term—

(a) either has been approved by the Central Government before the issue of debentures or the raising of the loans, or is in conformity with the rules, if any, made by that Government in this behalf; and

(b) in the case of debentures or loans other than debentures issued to, or loans obtained from, the Government or any institution specified by the Central Government in this behalf, has also been approved by a special resolution passed by the company in general meeting before the issue of the debentures or the raising of the loans.”;

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Notwithstanding anything contained in the foregoing provisions of this section, where any debentures have been issued to, or loans have been obtained from, the Government by a company, whether such debentures have been issued or loans have been obtained before or after the commencement of the Companies (Amendment) Act, 1963, the Central Government may if in its opinion it is necessary in the public interest so to do, by order, direct that such debentures or loans or any part thereof shall be converted into shares in the company on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of issue of such debentures or the terms of such loans do not include a term providing for an option for such conversion.

(5) In determining the terms and conditions of such conversion, the Central Government shall have due regard to the following circumstances, that is to say, the financial position of the company, the terms of issue of the debentures or the terms of the loans, as the case may be, the rate of interest payable on the debentures or the loans, the capital of the company, its loan liabilities, its reserves, its profits during the preceding five years and the current market price of the shares in the company.

(6) A copy of every order proposed to be issued by the Central Government under sub-section (4) shall be laid in draft before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(7) If the terms and conditions of such conversion are not acceptable to the company, the company may, within thirty days from the date of communication to it of such order or within such further time as may be granted by the Court, prefer an appeal to the Court in regard to such terms and conditions and the decision

of the Court on such appeal and, subject only to such decision, the order of the Central Government under sub-section (4) shall be final and conclusive.”.

6. *Amendment of section 153.*—In section 153 of the principal Act, the words “or be receivable by the Registrar” shall be omitted.

7. *Insertion of new sections after section 153.*—After section 153 of the principal Act, the following sections shall be inserted, namely:—

“153A. *Appointment of public trustee.*—The Central Government may, by notification in the Official Gazette, appoint a person as public trustee to discharge the functions and to exercise the rights and powers conferred on him by or under this Act.

153B. *Declaration as to shares and debentures held in trust.*—(1) Notwithstanding anything contained in section 153, where any shares in, or debentures of, a company are held in trust by any person (hereinafter referred to as the trustee), the trustee shall, within such time and in such such form as may be prescribed, make a declaration to the public trustee.

(2) A copy of the declaration made under sub-section (1) shall be sent by the trustee to the company concerned, within twenty-one days, after the declaration has been sent to the public trustee.

(3) (a) If a trustee fails to make a declaration as required by this section, he shall be punishable with fine which may extend to five thousand rupees and in the case of a continuing failure, with a further fine which may extend to one hundred rupees for every day during which the failure continues.

(b) If a trustee makes in a declaration aforesaid any statement which is false and which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years and also with fine.

(4) The provisions of this section and section 187B shall not apply in relation to a trust—

(a) where the trust is not created by instrument in writing; or

(b) even if the trust is created by instrument in writing, where the trust money invested in shares in, or debentures of, a company—

(i) does not exceed one lakh of rupees, or

(ii) exceeds one lakh of rupees but does not exceed either five lakhs of rupees or twenty-five per cent of the paid up share capital of the company, whichever is less.”.

8. *Insertion of new section after section 187A.*—After section 187A of the principal Act, the following section shall be inserted, namely:—

“187B. *Exercise of voting rights in respect of shares held in trust.*—(1) Save as otherwise provided in section 153B but notwithstanding anything contained in any other provisions of this Act or any other law or any contract, memorandum or articles, where any shares in a company are held in trust by a person (hereinafter referred to as trustee), the rights and powers (including the right to vote by proxy) exercisable at any meeting of the company or at any meeting of any class of members of the company by the trustee as a member of the company shall—

(a) cease to be exercisable by the trustee as such member, and

(b) become exercisable by the public trustee.

(2) The public trustee may, instead of himself attending the meeting, and exercising the rights and powers,

as aforesaid, appoint as his proxy an officer of Government or the trustee himself to attend such meeting and to exercise such rights and powers in accordance with the directions of the public trustee:

Provided that where the trustee is appointed by the public trustee as his proxy, the trustee shall be entitled, notwithstanding anything contained in any other provisions of this Act, to exercise such rights and powers in the same manner as he would have been but for the provisions of this section.

(3) The public trustee may abstain from exercising the rights and powers conferred on him by this section if in his opinion the objects of the trust or the interests of the beneficiaries of the trust are not likely to be adversely affected by such abstention.

(4) If for any reason the trustee considers that the public trustee should not abstain from exercising the rights and powers conferred on him by this section and the exercise of such rights and powers is necessary in order to safeguard the objects of the trust or the interests of the beneficiaries of the trust, he may by writing communicate his views in this behalf to the public trustee but the public trustee may in his discretion either accept such views or reject the same.

(5) No suit, prosecution or other legal proceeding shall lie against the public trustee at the instance of the trustee or any person on his behalf or any other person on the ground that the public trustee has abstained from exercising the rights and powers conferred on him by this section.

(6) In order to enable the public trustee to exercise the rights and powers aforesaid, the public trustee shall also be entitled to receive and inspect all books and papers under this Act, which a member is entitled to receive and inspect."

9. *Insertion of new Chapter and sections in Part VI.*—In the principal Act, in Part VI, after Chapter IV, the following Chapter and sections shall be inserted, namely:—

"CHAPTER IVA.—POWERS OF CENTRAL GOVERNMENT TO REMOVE MANAGERIAL PERSONNEL FROM OFFICE ON THE RECOMMENDATION OF THE TRIBUNAL.

388B. *Reference to Tribunal of cases against managerial personnel.*—(1) Where in the opinion of the Central Government there are circumstances suggesting—

- (a) that any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud, misfeasance, persistent negligence or default in carrying out his obligations and functions under the law, or breach of trust; or
- (b) that the business of a company is not or has not been conducted and managed by such person in accordance with sound business principles or prudent commercial practices; or
- (c) that a company is or has been conducted and managed by such person in a manner which is likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or
- (d) that the business of a company is or has been conducted and managed by such person with intent to defraud its creditors, members of or any other persons or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,

the Central Government may state a case against the person aforesaid and refer the same to the Tribunal with a request that the Tribunal may inquire into the case and

record a finding as to whether or not such person is a fit and proper person to hold the office of director or any other Office connected with the conduct and management of any company.

(2) Every case under sub-section (1) shall be stated in the form of an application which shall be presented to the Tribunal or such officer thereof as it may appoint in this behalf.

(3) The person against whom a case is referred to the Tribunal under this section shall be joined as a respondent to the application.

(4) Every such application—

- (a) shall contain a concise statement of such circumstances and materials as the Central Government may consider necessary for the purpose of the inquiry, and
- (b) shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908, (5 of 1908) for the signature and verification of a plaint in a suit by the Central Government.

(5) The Tribunal may at any stage of the proceedings allow the Central Government to alter or amend the application in such manner and on such terms as may be just, and all such alterations or amendments shall be made as may be necessary for the purpose of determining the real questions in the inquiry.

388C. *Interim order by Tribunal.*—(1) Where during the pendency of a case before the Tribunal it appears necessary to the Tribunal so to do in the interest of the members or creditors of the company or in the public interest, the Tribunal may on the application of the Central Government or on its own motion, by an order—

- (a) direct that the respondent shall not discharge any of the duties of his office until further orders of the Tribunal, and
- (b) appoint a suitable person in place of the respondent to discharge the duties of the office held by the respondent subject to such terms and conditions as the Tribunal may specify in the order.

(2) Every person appointed under clause (b) of sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

388D. *Findings of the Tribunals.*—At the conclusion of the hearing of the case, the Tribunal shall record its findings stating therein specifically as to whether or not the respondent is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

388E. *Power of Central Government to remove managerial personnel on the basis of Tribunal's findings.*—

(1) Notwithstanding any other provision contained in this Act, the Central Government may, by order, remove from office any director, or any other person concerned in the conduct and management of the affairs, of a company, against whom there is a finding of the Tribunal under this Chapter or a decision of a High Court thereon:

Provided that where a firm or a body corporate is concerned in the conduct and management of the affairs of a company as its managing agent or secretaries and treasurers, and the finding of the Tribunal or the decision of a High Court is against any partner in such firm, or any director of, or any person holding a general power of attorney from, such body corporate, the Central Government may also remove from the office of managing agent or secretaries and treasurers, such firm or body corporate.

(2) No order under this section shall be made against

any person unless he has been given a reasonable opportunity to show cause against the same:

Provided that no matter shall be raised by such person before the Central Government if such matter has been decided by the Tribunal or the High Court.

(3) The person against whom an order of removal from office is made under this section shall not hold the office of a director or any other office connected with the conduct and management of the affairs of any company during a period of five years from the date of the order of removal:

Provided that the Central Government may, with the previous concurrence of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years.

(4) Notwithstanding anything contained in any other provision of this Act, or any other law or any contract, memorandum or articles, on the removal of a person from the office of a director or, as the case may be, any other office connected with the conduct and management of the affairs of the company, that person shall not be entitled to, or be paid, any compensation for the loss or termination of office.

(5) On the removal of a person from the office of a director or, as the case may be, any other office connected with the conduct and management of the affairs of the company, the company may, with the previous approval of the Central Government, appoint another person to that office in accordance with the provisions of this Act."

10. *Amendment of section 397.*—In section 397 of the principal Act—

- (a) in sub-section (1), for the words "are being conducted", the words "are being conducted in a manner prejudicial to public interest or" shall be substituted;
- (b) in sub-section (2), in clause (a), for the words "are being conducted", the words "are being conducted in a manner prejudicial to public interest or" shall be substituted.

11. *Amendment of section 398.*—In sub-section (1) of section 398 of the principal Act—

- (a) in clause (a), for the words "are being conducted", the words "are being conducted in a manner prejudicial to public interest or" shall be substituted;
- (b) in clause (b), for the words "will be conducted", the words "will be conducted in a manner prejudicial to public interest or" shall be substituted.

12. *Amendment of section 408.*—In sub-section (1) of section 408—

- (a) after the words "if the Central Government", the words "of its own motion or" shall be inserted;
- (b) after the words "interests of the company" the words "or to public interest" shall be inserted.

13. *Insertion of new section after section 635.*—After section 635 of the principal Act, the following section shall be inserted, namely:—

"635A. *Protection of acts done in good faith.*—No suit, prosecution or other legal proceeding shall lie against officers of Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder."

14. *Amendment of section 637.*—For sub-sections (1) and (2) of section 637 of the principal Act, the following sub-sections shall be substituted, namely:—

"(1) The Central Government may, by notification in

the Official Gazette and subject to such conditions, restrictions and limitations as may be specified therein, delegate—

- (a) any of its powers or functions under this Act (other than the power to appoint a person as public trustee under section 153A and the power to make rules) to the Company Law Board;
- (b) any of its powers or functions under this Act, other than those specified in sub-section (2), to such other authority or such officer as may be specified in the notification.

(2) The powers and functions which cannot be delegated under clause (b) of sub-section (1) are those conferred by or mentioned in the following provisions of this Act, namely sections 10, 81, 89(4), 211(3) and (4), 212, 213, 235, 237, 239, 241, 242, 243, 244, 245, 247, 248, 249, 250, 259, 268, 269, 274(2), 295, 300, 310, 311, 324, 326, 328, 329, 332, 343, 345, 346, 347(2), 349, 352, 369, 372, 396, 399 (4) and (5), 401, 408, 409, 410, 411(b), 448, 609, 613, 620, 638, 641 and 642.

(2A) The provisions of this Act shall apply in relation to the Company Law Board as they apply in relation to the Central Government in respect of any matter in relation to which the powers and functions of the Central Government have been delegated to the Company Law Board."

Assented to on 30-12-63.

THE PREVENTIVE DETENTION (CONTINUANCE) ACT, 1963

(ACT No. 51 OF 1963)

AN
ACT

to continue the Preventive Detention Act, 1950, for a further period.

BE it enacted by Parliament in the Fourteenth year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Preventive Detention (Continuance) Act, 1963.

2. *Amendment of section 1.*—In sub-section (3) of section 1 of the Preventive Detention Act, 1950 (4 of 1950) for the figures letters and words "31st day of December, 1963", the figures letters and words "31st day of December, 1966" shall be substituted.

Assented to on 30-12-63.

THE DELHI DEVELOPMENT (AMENDMENT) ACT, 1963

(ACT No. 56 OF 1963)

AN
ACT

to amend the Delhi Development Act, 1957.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Delhi Development (Amendment) Act, 1963.

2. *Amendment of section 2.*—In section 2 of the Delhi Development Act, 1957 (61 of 1957), (hereinafter referred to as the principal Act,) for clause (1), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

'(1) the expression "land" shall have the meaning assigned to it in section 3 of the Land Acquisition Act, 1894 (1 of 1894).'

3. *Amendment of section 3.*—in section 3 of the principal Act,—

(a) in sub-section (3), for clause (g), the following

clause shall be substituted, namely:—

“(g) three other persons to be nominated by the Central Government, of whom one shall be a person with experience of town planning or architecture; and”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) The appointment of the vice-chairman may be either whole-time or part-time as the Central Government may think fit but the appointment of the finance and accounts member and the engineer member shall be whole-time.”;

(c) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

“(4) The vice-chairman, if he is a whole-time member, the finance and accounts member and the engineer member shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and governed by such conditions of service as may be determined by rules made in this behalf.

(5) The vice-chairman, if he is a part-time member, and other members specified in clause (e), clause (f) and clause (g) of sub-section (3) may be paid from the funds of the Authority such allowances, if any, as may be fixed by the Central Government in this behalf.”;

(d) in sub-section (6), for the words “two members”, the words “three members” shall be substituted and for the words “two representatives”, the words “three representatives” shall be substituted.

4. *Amendment of section 5.*—In section 5 of the principal Act, in sub-section (1), for the words “the zonal development plans and generally on the planning of development of Delhi and on such other matters”, the words “on such other matters relating to the planning of development, or” shall be substituted.

5. *Insertion of new section 5A.*—After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. *Constitution of committees.*—(1) The Authority may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons and for such purpose or purposes as it may think fit.

(2) A committee constituted under this section shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by regulations made in this behalf.

(3) The members of a committee (other than the members of the Authority) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Authority, as may be determined by regulations made in this behalf.”.

6. *Amendment of section 7.*—In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The master plan may provide for any other matter which is necessary for the proper development of Delhi.”.

7. *Insertion of new Chapter IIIA.*—After Chapter III, the following Chapter shall be inserted, namely:—

“CHAPTER IIIA

MODIFICATIONS TO THE MASTER PLAN AND THE ZONAL DEVELOPMENT PLAN

11A. *Modifications to plan.*—(1) The Authority may make any modifications to the master plan or the zonal development plan as it thinks fit, being modifications which, in its opinion do not effect important alterations in the character of the plan and which do not relate to the extent of land-uses or the standards of population density.

(2) The Central Government may make any modifications to the master plan or the zonal development plan whether such modifications are of the nature specified in sub-section (1) or otherwise.

(3) Before making any modifications to the plan, the Authority or, as the case may be, the Central Government shall publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the Central Government.

(4) Every modification made under the provisions of this section shall be published in such manner as the Authority or the Central Government, as the case may be, may specify and the modifications shall come into operation either on the date of the publication or on such other date as the Authority or the Central Government may fix.

(5) When the Authority makes any modifications to the plan under sub-section (1), it shall report to the Central Government the full particulars of such modifications within thirty days of the date on which such modifications come into operation.

(6) If any question arises whether the modifications proposed to be made by the Authority are modifications which effect important alterations in the character of the plan or whether they relate to the extent of land-uses or the standards of population density, it shall be referred to the Central Government whose decision thereon shall be final.

(7) Any reference in any other Chapter, except Chapter III, to the master plan or the zonal development plan shall be construed as a reference to the master plan or the zonal development plan as modified under the provisions of this section.”.

8. *Amendment of section 12.*—In section 12 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) As soon as may be after the commencement of this Act, the Central Government may, by notification in the Official Gazette, declare any area in Delhi to be a development area for the purposes of this Act:

Provided that no such declaration shall be made unless a proposal for such declaration has been referred by the Central Government to the Authority and the Municipal Corporation of Delhi for expressing their views thereon within thirty days from the date of the receipt of the reference or within such further period as the Central Government may allow and the period so specified or allowed has expired.”.

(b) in the proviso to sub-section (3), after the word “may”, the words, figures and letter “subject to the provisions of section 53A” shall be inserted.

9. *Substitution of new section for section 15.*—For section 15 of the principal Act, the following section shall

be, and shall be deemed always to have been, substituted, namely:—

“15. *Compulsory acquisition of land.*—(1) If in the opinion of the Central Government, any land is required for the purpose of development, or for any other purpose, under this Act, the Central Government may acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1894).

(2) Where any land has been acquired by the Central Government, that Government may, after it has taken possession of the land, transfer the land to the Authority or any local authority for the purpose for which the land has been acquired on payment by the Authority or the local authority of the compensation awarded under that Act and of the charges incurred by the Government in connection with the acquisition.”

10. *Omission of sections 16 to 20.*—Sections 16 to 20 of the principal Act shall be, and shall be deemed always to have been, omitted.

11. *Insertion of new section 22A.*—After section 22 of the principal Act, the following section shall be inserted, namely:—

“22A. *Power of Authority to develop land in non-development area.*—Notwithstanding anything contained in sub-section (2) of section 12, the Authority may, if it is of opinion that it is expedient to do so, undertake or carry out any development of any land which has been transferred to it or placed at its disposal under section 15 or section 22 even if such land is situate in any area which is not a development area.”

12. *Amendment of section 23.*—In section 23 of the principal Act,—

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) all moneys borrowed by the Authority from sources other than the Central Government by way of loans or debentures;”

(b) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) The Authority may borrow money by way of loans or debentures from such sources (other than the Central Government) and on such terms and conditions as may be approved by the Central Government.

(6) The Authority shall maintain a sinking fund for the repayment of moneys borrowed under sub-section (5), and shall pay every year into the sinking fund such sum as may be sufficient for repayment within the period fixed of all moneys so borrowed.

(7) The sinking fund or any part thereof shall be applied in, or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose.”

13. *Amendment of section 29.*—In section 29 of the principal Act, in sub-section (2), the following shall be inserted at the end, namely:—

“and in the case of a continuing offence, with further fine which may extend to two hundred and fifty rupees for every day during which such offence continues after conviction for the first commission of the offence.”

14. *Amendment of section 30.*—In section 30 of the principal Act,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Where any development has been commenced or is being carried on or has been completed

in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 12 or in contravention of any conditions subject to which such permission, approval or sanction has been granted,—

(i) in relation to a development area, any officer of the Authority empowered by it in this behalf,

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof,

may, in addition to any prosecution that may be instituted under this Act, make an order directing that such development shall be removed by demolition, filling or otherwise by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period (not being less than five days and more than fifteen days from the date on which a copy of the order of removal, with a brief statement of the reasons therefor, has been delivered to the owner or that person) as may be specified in the order and on his failure to comply with the order, the officer of the Authority or, as the case may be, the competent authority may remove or cause to be removed the development and the expenses of such removal shall be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue:

Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.

(1A) If any development in an area other than a development area has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the approval or sanction referred to in section 12 or in contravention of any conditions subject to which such approval or sanction has been granted and the competent authority has failed to remove or cause to be removed the development within the time that may be specified in this behalf by the Administrator of the Union territory of Delhi, the Administrator may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to remove or cause to be removed such development and that officer shall be bound to carry out such direction and any expenses of such removal may be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue.”

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Any person aggrieved by the direction of the Administrator under sub-section (1A) may appeal to the Central Government within thirty days from the date thereof, and the Central Government may after giving an opportunity of hearing to the person aggrieved, either allow or dismiss the appeal or may reverse or vary any part of the direction.”

(iii) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) The decision of the chairman or the Central Government on the appeal and subject only to such decision the order under sub-section (1) or, as the case may be, the direction under sub-section (1A), shall be final and shall not be questioned in any court.

(4) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to demolition of buildings contained in any other law for the time being in force.”

15. *Substitution of new section for section 31.*—For section 31 of the principal Act, the following section shall be substituted, namely:—

“31. *Power to stop development.*—(1) Where any development in any area has been commenced in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 12 or in contravention of any conditions subject to which such permission, approval or sanction has been granted,—

(i) in relation to a development area, the Authority or any officer of the Authority empowered by it in this behalf,

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof,

may, in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1), the Authority or the officer of the Authority or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) If any development in an area other than a development area has been commenced in contravention of the master plan or zonal development plan or without the approval or sanction referred to in section 12 or in contravention of any conditions subject to which such approval or sanction has been granted and the competent authority has failed to make an order under sub-section (1) or, as the case may be, a requisition under sub-section (2), within the time that may be specified in this behalf by the Administrator of the Union territory of Delhi, the Administrator may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to make the order or requisition, as the case may be, and that officer shall be bound to carry out such direction and the order or requisition made by him in pursuance of the direction shall be complied with accordingly.

(4) After the requisition under sub-section (2) or sub-section (3) has been complied with, the Authority or the competent authority or the officer to whom the direction was issued by the Administrator under sub-section (3), as the case may be, may depute by a written order a police officer or an officer or employee of the Authority or local authority concerned to watch the place in order to ensure that the development is not continued.

(5) Any person failing to comply with an order under sub-section (1) or, as the case may be, under sub-section (3), shall be punishable with fine which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.

(6) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 30 or the discontinuance of the development under this section.

(7) In section 30 and in this section, “competent authority” in relation to a local authority means any authority or officer of that local authority empowered or authorised to order demolition or stoppage of buildings or works, in accordance with the provisions made by or under the law governing such local authority.

(8) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to stoppage of building operations contained in any other law for the time being in force.”

16. *Amendment of section. 34.*—In section 34 of the principal Act, for sub-section (1), following sub-section shall be substituted, namely:—

“(1) Any offence made punishable by or under this Act may, either before or after the institution of proceedings, be compounded—

(i) in the case of an offence referred to in sub-section (2) of section 49, by the Administrator of the Union territory of Delhi or any officer authorised by him in this behalf by general or special order; and

(ii) in any other case, by the Authority or, as the case may be, the local authority concerned or any person authorised by the Authority or such local authority by general or special order in this behalf.”

17. *Substitution of new section for section. 35.*—For section 35 of the principal Act, the following section shall be substituted, namely:—

“35. *Default powers of the Authority.*—(1) If the Authority, after holding a local enquiry or upon report from any of its officers or other information in its possession, is satisfied that any amenity in relation to any land in a development area has not been provided in relation to that land which in the opinion of the Authority is to be provided, or that any development of the land for which permission, approval or sanction has been obtained under this Act has not been carried out, it may, after affording a reasonable opportunity to show cause, serve upon the owner of the land or upon the person providing or responsible for providing the amenity a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any amenity is not provided or any such development is not carried out within the time specified in the notice, then the Authority may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that before taking any action under this sub-section, the Authority shall afford reasonable opportunity to the owner of the land or to the person providing or responsible for providing the amenity to show cause as to why such action should not be taken.

(3) All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate as the Central Government may by order fix from the date when a demand for the expenses is made until payment may be recovered by the Authority from the owner or the person providing or responsible for providing the amenity as arrears of land revenue.”

18. *Substitution of new section for section 37.*—For section 37 of the principal Act, the following section shall be substituted, namely:—

“37. *Power of Authority to levy betterment charges.*—(1) Where, in the opinion of the Authority, as a consequence of any development having been executed by the Authority in any development area, the value of any property

in that area or in any area other than the development area, which has been benefited by the development, has increased or will increase, the Authority shall be entitled to levy upon the owner of the property or any person having an interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development:

Provided that no betterment charge shall be levied in respect of lands owned by Government within Delhi:

Provided further that where any land belonging to Government has been let out by Government to any person, then that land and any building situate thereon shall be subject to a betterment charge under this section.

(2) Such betterment charge shall be an amount—

(i) in respect of any property situate in a development area, equal to one-third of the amount, and

(ii) in respect of property situate in any other area, not exceeding one-third of the amount,

by which the value of the property on the completion of the execution of the development scheme estimated as if the property were clear of buildings exceeds the value of the property prior to such execution estimated in like manner:

Provided that in levying betterment charge on any property under clause (ii), the Authority shall have regard to the extent and nature of benefit accruing to the property from the development and such other factors as may be prescribed by rules made in this behalf."

19. *Amendment of section 39.*—In section 39 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The arbitrators shall, for the purpose of determining any matter referred to them, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) administering to any party to the arbitration such interrogatories as may, in the opinion of the arbitrators, be necessary."

20. *Insertion of new section 40A.*—After section 40 of the principal Act, the following section shall be inserted, namely:—

"40A. *Mode of recovery of moneys due to Authority.*—Any money due to the Authority on account of fees or charges, or from the disposal of lands, buildings or other properties, movable or immovable, or by way of rents and profits may, if the recovery thereof is not expressly provided for in any other provision of this Act, be recovered by the Authority as arrears of land revenue."

21. *Amendment of section 41.*—In section 41 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Central Government may, at any time, either on its own motion or on application made to it in this behalf, call for the records of any case disposed of or order passed by the Authority for the purpose of satisfying itself as to the legality or propriety of any order passed or direction issued and may pass such order or issue such direction in relation thereto as it may think fit:

Provided that the Central Government shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard."

22. *Substitution of new section for section 42.*—For section 42 of the principal Act, the following section shall be substituted, namely:—

"42. *Returns and inspection.*—(1) The Authority shall furnish to the Central Government such reports, returns and other information as that Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), the Central Government or any officer authorised by the Central Government in this behalf, may call for reports, returns and other information from the Authority or local authority in regard to the implementation of the master plan.

(3) Any person authorised by the Central Government or the officer referred to in sub-section (2) may enter into or upon any land with or without assistants or workmen for ascertaining whether the provisions of the master plan are being or have been implemented, or whether the development is being or has been carried out in accordance with such plan.

(4) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building."

23. *Amendment of section 49.*—Section 49 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, after the words "under this Act", the words, brackets and figure "other than an offence referred to in sub-section (2)" shall be inserted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) No prosecution for any offence for failure to comply with the order of the officer referred to in sub-section (3) of section 31 and punishable under sub-section (5) of that section shall be instituted except with the previous sanction of the Administrator or any officer authorised by him in this behalf."

24. *Amendment of section 52.*—Section 52 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, after the words "local authority", the words, figure and letter "or committee constituted under section 5A" shall be inserted;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised by such officer as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

(3) The Administrator of the Union territory of Delhi may, by notification in the Official Gazette, direct that any power exercisable by him under this Act may also be exercised by such officer as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein."

25. *Amendment of section 53.*—In section 53 of the principal Act, in sub-section (2) for the words "Save as aforesaid", the following shall be substituted, namely:—

"Save as otherwise provided in sub-section (4) of section 30 or sub-section (8) of section 31 or sub-section (1) of this section".

26. *Insertion of new sections 53A and 53B.*—After section 53 of the principal Act, the following sections shall be inserted, namely:—

"53A. *Restriction on power of a local authority to make rules, regulations or bye-laws in respect of certain matters.*—(1) Notwithstanding anything contained in any law for the time being in force, no rule, regulation or bye-law shall be made or amended by a local authority in respect of matters specified in sub-section (2) unless the authority upon consideration of such rule, regulation or bye-law, certifies that it does not contravene any of the provisions of the master plan or the zonal development plan.

(2) The matters referred to in sub-section (1) are the following namely:—

- (a) water supply, drainage and sewage disposal;
- (b) erection and re-erection of buildings, including grant of building permissions, licences and imposition of restrictions on use and sub-division of buildings;
- (c) sub-division of land into building sites, roads and lanes, recreational sites and sites for community facilities; and
- (d) development of land, improvement schemes, and housing and re-housing schemes.

53B. *Notice to be given of suits.*—(1) No suit shall be instituted against the Authority, or any member thereof, or any of its officers or other employees, or any person acting under the directions of the Authority or any member or any officer or other employee of the Authority in respect of any act done or purporting to have been done in pursuance of this Act or any rule or regulation made thereunder until the expiration of two months after notice in writing has been, in the case of the Authority, left at its office, and in any other case, delivered to, or left at the office or place of abode of, the person to be sued and unless such notice states explicitly the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.

(2) No suit such as is described in sub-section (1) shall, unless it is a suit for recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(3) Nothing contained in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit."

27. *Amendment of section 55.*—In section 55 of the principal Act,—

(i) in sub-section (1),—

(a) the words "under the provisions of this Act or, as the case may be, of any other law relating to acquisition of immovable property, by the authority for the time being charged with the development of the area in which the land is situated" shall be, and shall be deemed always to have been, omitted;

(b) for the words "serve on the authority a notice" the words "serve on the Central Government a notice" shall be substituted.

(ii) in sub-section (2), for the words "If the authority for the time being charged with the development of the area", the words "If the Central Government" shall be substituted.

28. *Amendment of section 56.*—In section 56 of the principal Act, in sub-section (2),—

(a) after clause (d), the following clause shall be inserted namely:—

"(dd) the stages by which the development of any particular features of a zone may be carried out;";

(b) for clause (g), the following clause shall be substituted, namely:—

"(g) the form and manner in which notice under sub-section (3) of section 11A shall be published;";

(c) clause (i) shall be, and shall be deemed always to have been, omitted;

(d) after clause (j), the following clauses shall be inserted, namely:—

"(jj) the procedure to be observed by the Administrator under section 30 or section 31;

(jjj) the factors to be taken into consideration in determining the rate of betterment charge in respect of property situate in any area outside the development area;";

(e) after clause (m), the following clause shall be inserted, namely:—

"(mm) the procedure to be followed for borrowing moneys by way of loans or debentures and their repayment;";

29. *Amendment of section 57.*—In section 57 of the principal Act, in sub-section (1),—

(a) after clause (a), the following clause shall be inserted, namely:—

"(aa) the summoning and holding of meetings of a committee constituted under section 5A, the time and place where such meetings are to be held, the conduct of business at such meetings, and the number of members necessary to form a quorum thereat and the fees and allowances payable to the members for attending the meetings or any other work of the Authority;";

(b) clause (g) shall be, and shall be deemed always to have been, omitted.

30. *Validation of certain acquisitions.*—If any acquisition of land has been made under the provisions of the Land Acquisition Act, 1894 (1 of 1894) for any purposes of the principal Act or any notification has been issued or order has been made or any proceeding has been instituted or any action has been taken in connection with acquisition of any land for such purpose, such acquisition, notification, order, proceeding or action shall not be deemed to be invalid merely on the ground that it was made, issued, instituted or taken under the said provisions.

Assented to on 30-12-63.

THE CENTRAL BOARDS OF REVENUE ACT, 1963

(ACT No. 54 OF 1963)

AN

ACT

to provide for the constitution of separate Boards of Revenue for Direct Taxes and for Excise and Customs and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Boards.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may

be called the Central Boards of Revenue Act, 1963.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Board" means the Central Board of Direct Taxes or the Central Board of Excise and Customs constituted under section 3;

(b) "Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924).

(c) "direct tax" means—

(i) any duty leviable or tax chargeable under—

(i) the Estate Duty Act, 1953 (34 of 1953);

(ii) the Wealth-tax Act, 1957 (27 of 1957);

(iii) the Expenditure-tax Act, 1957 (29 of 1957);

(iv) the Gift-tax Act, 1958 (18 of 1958);

(v) the Income-tax Act, 1961 (43 of 1961);

(vi) the Super Profits Tax Act, 1963 (14 of 1963); and

(2) any other duty or tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax.

3. *Constitution of separate Central Boards for Direct Taxes and for Excise and Customs.*—(1) The Central Government shall, in place of the Central Board of Revenue, constitute two separate Boards of Revenue to be called the Central Board of Direct Taxes and the Central Board of Excise and Customs, and each such Board shall, subject to the control of the Central Government, exercise such powers and perform such duties, as may be entrusted to that Board by the Central Government or by or under any law.

(2) Each Board shall consist of such number of persons not exceeding five as the Central Government may think fit to appoint.

4. *Procedure of the Board.*—(1) The Central Government may make rules for the purpose of regulating the transaction of business by each Board and every order made or act done in accordance with such rules shall be deemed to be the order or act, as the case may be, of the Board.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

5. *Amendment of certain enactments.*—(1) In the Estate Duty Act, 1953 (34 of 1953), the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1957 (29 of 1957), the Gift-tax Act, 1958 (18 of 1958), the Income-tax Act, 1961 (43 of 1961) and the Super Profits Tax Act, 1963 (14 of 1963) for the words and figures "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924)" or "Central Board of Revenue" wherever they occur the words and figures "Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963" shall be substituted.

(2) In the Central Excises and Salt Act, 1944 (1 of 1944)

and the Customs Act, 1962 (52 of 1962) for the words and figures "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924)" or "Central Board of Revenue" wherever they occur, the words and figures "Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963" shall be substituted.

(3) The functions entrusted to the Central Board of Revenue by or under any other enactment shall,—

(a) if such functions relate to matters connected with direct taxes, be discharged by the Central Board of Direct Taxes; and

(b) if such functions relate to any other matter, unless they are entrusted by the Central Government to the Central Board of Direct Taxes, be discharged by the Central Board of Excise and Customs.

6. *Transfer of certain proceedings.*—(1) Every proceeding pending at the commencement of this Act, before the Central Board of Revenue shall—

(a) if it is a proceeding relating to direct taxes, stand transferred to the Central Board of Direct Taxes; and

(b) in any other case, stand transferred to the Central Board of Excise and Customs.

(2) If any question arises as to whether any proceeding stands transferred to the Central Board of Direct Taxes or to the Central Board of Excise and Customs, it shall be referred to the Central Government whose decision thereon shall be final.

(3) In any legal proceeding pending at the commencement of this Act to which the Central Board of Revenue is a party,—

(a) if it is a proceeding relating to direct taxes, the Central Board of Direct Taxes shall be deemed to be substituted for the Central Board of Revenue in such proceeding; and

(b) if it is a proceeding relating to any other matter, the Central Board of Excise and Customs shall be deemed to be substituted for the Central Board of Revenue in such proceeding.

7. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of this Act.

8. *Repeal and saving.*—(1) The Central Board of Revenue Act, 1924 (4 of 1924), is hereby repealed.

(2) Nothing contained in sub-section (1) shall affect any appointment, assessment, order (including quasi-judicial order) or rule made, or exemption, approval or recognition granted, or any notice, notification, direction or instruction issued, or any duty levied, or penalty or fine imposed, or confiscation adjudged, or any form prescribed, or any other thing done or action taken by the Central Board of Revenue under any law and any such appointment, assessment, order, rule, exemption approval, recognition, notice, notification, direction, instruction, duty, penalty, fine, confiscation, form, thing or action shall be deemed to have been made, granted, issued, levied, imposed, adjudged, prescribed, done or taken by the Central Board of Direct Taxes, or as the case may be, by the Central Board of Excise and Customs and shall continue to be in force unless and until it is revised, withdrawn or superseded by the concerned Board.

Assented to on 30-12-63.

THE BANKING LAWS (MISCELLANEOUS PROVISIONS) ACT, 1963
(ACT NO. 55 OF 1963)

AN
ACT

further to amend the Reserve Bank of India Act, 1934, the Banking Companies Act, 1949 and the State Bank of India (Subsidiary Banks) Act, 1959.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I

1. *Short title and commencement.*—(1) This Act may be called the Banking Laws (Miscellaneous Provisions) Act, 1963.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE RESERVE BANK OF INDIA ACT, 1934

2. *Amendment of section 34.*—In section 34 of the Reserve Bank of India, Act, 1934 (2 of 1934) (hereinafter in this Chapter referred to as the principal Act), sub-section (2) shall be omitted.

3. *Omission of section 36.*—Section 36 of the principal Act shall be omitted.

4. *Amendment of section 38.*—In section 38 of the principal Act, the words and figures “to re-issue any rupee coin delivered under section 36 nor” and the words “or by delivery to the Central Government under that section” shall be omitted.

5. *Insertion of new Chapter after Chapter IIIA.*—After Chapter IIIA of the principal Act, the following Chapter and sections shall be inserted, namely:—

“CHAPTER IIIB

PROVISIONS RELATIVE TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS AND FINANCIAL INSTITUTIONS

45H. *Chapter IIIB not to apply in certain cases.*—The provisions of this Chapter shall not apply to the State Bank or a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949) a banking institution or notified under section 51 of that Act:

Provided that for the purposes of this Chapter, the Madras Industrial Investment Corporation Limited shall not be deemed to be a banking company.

45I. *Definitions.*—In this Chapter, unless the context otherwise requires.

- (a) “company” means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956) and includes a foreign company within the meaning of section 591 of that Act;
- (b) “corporation” means a corporation incorporated by an Act of any legislature;
- (c) “financial institution” means any non-banking institution—
 - (i) which carries on as its business or part of its business the financing, whether by way of making loans or advances or otherwise, of trade, industry, commerce or agriculture; or
 - (ii) which carries on as its business or part of its business the acquisition of shares, stock, bonds, debentures or debenture stock or securities issued by a Government or local

authority or other marketable securities of a like nature; or

(iii) which carries on as its principal business hire-purchase transactions or the financing of such transactions;

(d) “firm” means a firm as defined in the Indian Partnership Act, 1932 (9 of 1932), of which the capital subscribed by its partners exceeds one lakh of rupees;

(e) “non-banking institution” means a company, corporation, or firm.

45J. *Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money.*—The Bank may, if it considers necessary in the public interest so to do, by general or special order,—

- (a) regulate or prohibit the issue by any non-banking institution of any prospectus or advertisement soliciting deposits of money from the public; and
- (b) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.

45K. *Power of Bank of collect information from non-banking institutions as to deposits and to give directions.*—

(1) The Bank may at any time direct that every non-banking institution shall furnish to the Bank, in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by the non-banking institution, as may be specified by the Bank by general or special order.

(2) Without prejudice to the generality of the power vested in the Bank under sub-section (1), the statements, information or particulars to be furnished under sub-section (1) may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, they are received.

(3) The Bank, may, if it considers necessary in the public interest so to do, give directions to non-banking institutions either generally or to any non-banking institution or group of non-banking institutions in particular, in respect of any matters relating to or connected with the receipt of deposits, including the rates of interest payable on such deposits, and the periods for which deposits may be received.

(4) If any non-banking institution fails to comply with any direction given by the Bank under sub-section (3), the Bank may prohibit the acceptance of deposits by that non-banking institution.

(5) If any question arises whether any amount borrowed or proposed to be borrowed by a non-banking institution is or is not a deposit, it shall be referred to the Bank whose decision thereon shall be final.

(6) Every non-banking institution receiving deposits shall, if so required by the Bank and within such time as the Bank may specify, cause to be sent at the cost of the non-banking institution a copy of its annual balance-sheet and profit and loss account or other annual accounts to every person from whom the non-banking institution holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the Bank.

45L. *Power of Bank to call for information from financial institutions and to give directions.*—(1) If the Bank is satisfied that for the purpose of enabling it to regulate the credit system of the country to its advantage it is necessary so to do, it may—

- (a) require financial institutions either generally or

any group of financial institutions or financial institution in particular, to furnish to the Bank in such form, at such intervals and within such time, such statements, information or particulars relating to the business of such financial institutions or institution, as may be specified by the Bank by general or special order;

- (b) give to such institutions either generally or to any such institution in particular, directions relating to the conduct of business by them or by it as financial institutions or institution.

(2) Without prejudice to the generality of the power vested in the Bank under clause (a) of sub-section (1), the statements, information or particulars to be furnished by a financial institution may relate to all or any of the following matters, namely, the paid-up capital, reserves or other liabilities, the investments whether in Government securities or otherwise, the persons to whom, and the purposes and periods for which, finance is provided and the terms and conditions, including the rates of interest, on which it is provided.

(3) In issuing directions to any financial institution under clause (b) of sub-section (1), the Bank shall have due regard to the conditions in which, and the objects for which, the institution has been established, its statutory responsibilities, if any, and the effect the business of such financial institution is likely to have on trends in the money and capital markets.

45M. *Duty of non-banking institutions to furnish statements, etc., required by Bank.*—It shall be the duty of every non-banking institution to furnish the statements, information or particulars called for, and to comply with any direction given to it, under the provisions of this Chapter.

45N. *Inspection.*—(1) The bank may, at any time, for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to it by a non-banking institution or for the purpose of obtaining any information or particulars which a non-banking institution has failed to furnish on its being called upon to do so, cause an inspection to be made by one or more of its officers or employees or other persons (hereinafter in this section referred to as the inspecting authority), of any such institution and its books and accounts.

(2) It shall be the duty of every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statements and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.

(3) The inspecting authority may examine on oath any director or member of any committee or body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof, in relation to its business and may administer an oath accordingly.

45O. *Penalties.*—(1) Whoever in any return, statement or information required or furnished by or under or for the purposes of any provision of this Chapter, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any person fails to produce any book, account or other document or to furnish any statement, information

or particulars, which under this Chapter it is his duty to produce or furnish, or to answer any question relating to the business of a non-banking institution which he is asked by the inspecting authority under this Chapter, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence, and, if he persists in such refusal, with a further fine which may extend to one hundred rupees for every day during which the offence continues.

(3) If any non-banking institution—

- receives any deposits in contravention of any direction given to it under this Chapter; or
- issues any prospectus or advertisement otherwise than in accordance with any order made under section 45J; or
- fails to comply with the provisions of sub-section (6) of section 45K or with the directions issued under sub-section (3) of that section or clause (b) of sub-section (1) of section 45L,

every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be punishable with fine which may extend—

- in the case of a contravention falling under clause (a), to twice the amount of the deposits received;
- in the case of a contravention falling under clause (b), to twice the amount of the deposits called for by the prospectus or advertisement; and
- in any other case, to two thousand rupees.

45P. *Cognisance of offence.*—No court shall take cognisance of any offence punishable under section 45O except upon a complaint in writing made by an officer of the Bank, generally or specially authorised in writing in this behalf by the Bank, and no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any such offence.

45Q. *Chapter IIIB to over-ride other laws.*—The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

CHAPTER III

(AMENDMENT OF THE BANKING COMPANIES ACT, 1949)

6. *Amendment of section 5.*—In section 5 of the Banking Companies Act, 1949 (10 of 1949) (hereinafter in this Chapter referred to as the principal Act), for the brackets, figure and words "(1) In this Act", the words "In this Act" shall be substituted.

7. *Substitution of new section for section 7.*—For section 7 of the principal Act, the following section shall be substituted, namely:—

"7. *Use of words "bank", "banker", "banking", or "banking company".*—(1) No company other than a banking company shall use as part of its name any of the words 'bank', 'banker' or 'banking', and no company shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

(2) No firm, individual or group of individuals shall, for the purpose of carrying on any business, use as part of its or his name any of the words 'bank', 'banking' or 'banking company'.

(3) Nothing in this section shall apply to—

(a) a subsidiary of a banking company formed for

- one or more of the purposes mentioned in sub-section (1) of section 19, whose name indicates that it is a subsidiary of that banking company;
- (b) any association of banks formed for the protection of their mutual interests and registered under section 25 of the Companies Act, 1956 (1 of 1956)."

8. *Amendment of section 10.*—In section 10 of the principal Act,—

- (a) in sub-section (1), in sub-clause (iii) of clause (c)—
- (i) for the words "who has a contract with the company for its management", the words "whose term of office as a person managing the company is" shall be substituted;
- (ii) for the first proviso, the following provisos shall be substituted, namely:—

"Provided that the term of office of any such person may be renewed or extended by further periods not exceeding five years on each occasion subject to the condition that such renewal or extension shall not be sanctioned earlier than two years from the date on which it is to come into force:

Provided also that where the term of office of such person is for an indefinite period, such term, unless it otherwise comes to an end earlier, shall come to an end immediately on the expiry of five years from the date of his appointment or on the expiry of three months from the date of commencement of section 8 of the Banking Laws (Miscellaneous Provisions) Act, 1963, whichever is later."

- (b) sub-sections (3), (4) and (5) shall be omitted.

9. *Amendment of section 12.*—In section 12 of the principal Act, in sub-section (2), for the words "in excess of five per cent", the words "in excess of one per cent" shall be substituted.

10. *Amendment of section 18.*—In section 18 of the principal Act, in clause (b) of the Explanation, the brackets and word "(Private)" shall be omitted.

11. *Amendment of section 20.*—In section 20 of the principal Act,—

- (a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956, (1 of 1956) no banking company shall—

- (a) make any loans or advances on the security of its own shares; or
- (b) grant unsecured loans or advances—
- (i) to any of its directors; or
- (ii) to firms or private companies in which any of its directors is interested as partner or managing agent or guarantor or to individuals in cases where any of its directors is a guarantor; or
- (iii) to any company in which the chairman of the board of directors of the banking company (where the appointment of a chairman is for a fixed term) is interested as chairman or managing director of the company if such company has no managing agent or as the managing agent or director or partner of the managing agent of such company:

Provided that nothing in clause (b) shall apply to the grant of unsecured loans or advances made by the banking company—

- (i) against bills for supplies or services made or rendered to Government or bills of exchange

arising out of *bona fide* commercial or trade transactions; or

- (ii) in respect whereof trust-receipts are furnished to the banking company."
- (b) in sub-section (2), for the words "granted by it to companies in which it or", the words, brackets and figure "granted by it to companies in cases (other than those in which the banking company is prohibited under sub-section (1) to make unsecured loans and advances) in which" shall be substituted.

12. *Insertion of new section after section 20.*—After section 20 of the principal Act, the following section shall be inserted, namely:—

"20A. *Restrictions on power to remit debts.*—(1) Notwithstanding anything to the contrary contained in section 293 of the Companies Act, 1956 (1 of 1956), a banking company shall not, except with the prior approval of the Reserve Bank, remit in whole or in part any debt due to it by—

- (a) any of its directors, or
- (b) any firm or company in which any of its directors is interested as director, partner, managing agent or guarantor, or
- (c) any individual if any of its directors is his partner or guarantor.

(2) Any remission made in contravention of the provisions of sub-section (1) shall be void and of no effect."

13. *Amendment of section 21.*—In section 21 of the principal Act,—

- (a) in sub-section (1), after the words "public interest", the words "or in the interests of depositors" shall be inserted;
- (b) in sub-section (2), for the words beginning with "as to the purposes" and ending with "directions as so given", the following shall be substituted, namely:—
- "as to—
- (a) the purposes for which advances may or may not be made,
- (b) the margins to be maintained in respect of secured advances,
- (c) the maximum amount of advances or other financial accommodation which, having regard to the paid-up capital, reserves and deposits of a banking company and other relevant considerations, may be made by that banking company to any one company, firm, association of persons or individual,
- (d) the maximum amount up to which, having regard to the considerations referred to in clause (c), guarantees may be given by a banking company on behalf of any one company, firm, association of persons or individual, and
- (e) the rate of interest and other terms and conditions on which advances or other financial accommodation may be made or guarantees may be given."

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every banking company shall be bound to comply with any directions given to it under this section."

14. *Amendment of section 26.*—In section 26 of the principal Act, the words "giving particulars of the deposits standing to the credit of each such account" shall be omitted.

15. *Amendment of section 30.*—In section 30 of the principal Act, in clause (d) of sub-section (3), for the

words "of profit and loss", the words "of profit or loss" shall be substituted.

16. *Amendment of section 34A.*—In section 34A of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) For the purposes of this section, "banking company" includes the Reserve Bank, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959)."

17. *Amendment of section 35.*—In section 35 of the principal Act, in sub-section (2) and in sub-section (3), after the words "director or other officer", the words "or employee" shall be inserted.

18. *Insertion of new part after part II.*—After Part II of the principal Act, the following Part and sections shall be inserted, namely:—

PART IIA

CONTROL OVER MANAGEMENT

35AA. *Power of Reserve Bank to remove managerial and other persons from office.*—(1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a banking company being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of any banking company it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any director chief executive officer (by whatever name called) or other officer or employee of the banking company.

(2) No order under sub-section (1) shall be made unless the director or chief executive officer or other officer or employee concerned has been given a reasonable opportunity of making a representation to the Reserve Bank against the proposed order:

Provided that if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors, the Reserve Bank may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer or other officer or employee, shall not, with effect from the date of such order—

(a) act as such director or chief executive officer or other officer or employee of the banking company;

(b) in any way, whether directly or indirectly, be concerned with, or take part in the management of, the banking company.

(3) (a) Any person against whom an order of removal has been made under sub-section (1) may, within thirty days from the date of communication to him of the order, prefer an appeal to the Central Government.

(b) The decision of the Central Government on such appeal and subject thereto, the order made by the Reserve Bank, under sub-section (1), shall be final and shall not be called into question in any court.

(4) Where any order is made in respect of a director or chief executive officer or other officer or employee of a banking company under sub-section (1), he shall cease to be a director or, as the case may be, chief executive officer or other officer or employee of the banking company and shall not, in any way, whether directly or indirectly, be concerned with, or take part in the management of, any banking company for such period not exceeding five years as may be specified in the order.

(5) If any person in respect of whom an order is made by the Reserve Bank under sub-section (1) or under the proviso to sub-section (2) contravenes the provisions of this section, he shall be punishable with fine which may extend to two hundred and fifty rupees for each day during which such contravention continues.

(6) Where an order under sub-section (1) has been made, the Reserve Bank, may, by order in writing, appoint a suitable person in place of the director or chief executive officer or other officer or employee who has been removed from his office under that sub-section, with effect from such date as may be specified in the order.

(7) Any person appointed as director or chief executive officer or other officer or employee under this section, shall—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) not incur any obligation or liability by reason only of his being a director or chief executive officer or other officer or employee or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto.

(8) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

36AB. *Power of Reserve Bank to appoint additional directors.*—(1) If the Reserve Bank is of opinion that in the interests of the banking company or its depositors it is necessary so to do, it may, from time to time by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the banking company:

Provided that the number of additional directors so appointed shall not at any time exceed five or one-third the maximum strength fixed for the Board by the articles, whichever is less.

(2) Any person appointed as additional director in pursuance of this section—

(a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification-shares in the banking company.

(3) For the purpose of reckoning any proportion of the total number of directors of the banking company, any additional director appointed under this section shall not be taken into account.

36AC. *Part IIA to over-ride other laws.*—Any appointment or removal of a director, chief executive officer or other officer or employee in pursuance of section 35AA or section 36AB shall have effect notwithstanding anything to the contrary contained in the Companies Act, 1955 (1 of 1955), or any other law for the time being in force or in any contract or any other instrument."

19. Amendment of section 44A.—In section 44A of the principal Act,—

- (a) sub-section (5) shall be omitted;
- (b) in sub-section (6), for the words “the terms of the order sanctioning the scheme”, the words “the provisions of the scheme as sanctioned” shall be substituted;
- (c) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) Where a scheme of amalgamation is sanctioned by the Reserve Bank under the provisions of this section, the Reserve Bank may, by a further order in writing, direct that on such date as may be specified therein the banking company (hereinafter in this section referred to as the amalgamated banking company) which by reason of the amalgamation will cease to function, shall stand dissolved and any such direction shall take effect notwithstanding anything to the contrary contained in any other law.

(6B) Where the Reserve Bank directs a dissolution of the amalgamated banking company, it shall transmit a copy of the order directing such dissolution to the Registrar before whom the banking company has been registered and on receipt of such order the Registrar shall strike off the name of the company.

(6C) An order under sub-section (4) whether made before or after the commencement of section 19 of the Banking Laws (Miscellaneous Provisions) Act, 1963 shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with, and a copy of the said order certified in writing by an officer of the Reserve Bank to be a true copy of such order and a copy of the scheme certified in the like manner to be a true copy thereof shall, in all legal proceedings (whether in appeal or otherwise and whether instituted before or after the commencement of the said section 19), be admitted as evidence to be same extent as the original order and the original scheme.”

20. Amendment of section 44B.—In section 44B of the principal Act, in sub-section (1), for the words “unless the compromise or arrangement”, the words “or sanction any modification in any such compromise or arrangement unless the compromise or arrangement or modification, as the case may be”, shall be substituted.

21. Amendment of section 45.—In section 45 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

“(7A) The sanction accorded by the Central Government under sub-section (7), whether before or after the commencement of section 21 of the Banking Laws (Miscellaneous Provisions) Act, 1963, shall be conclusive evidence that all the requirements of this section relating to reconstruction, or, as the case may be, amalgamation have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise and whether instituted before or after the commencement of the said section 21), be admitted as evidence to the same extent as the original scheme.”

22. Amendment of section 45F.—In section 45F of the principal Act,—

- (i) in sub-section (1), for the words “proceedings by

or against the banking company”, the words “legal proceedings” shall be substituted;

- (ii) in sub-section (2)—

- (a) after the words “directors”, the words “officers and other employees” shall be inserted, and
- (b) the words, brackets and figures “before the commencement of the Banking Companies (Amendment) Act, 1953” shall be omitted.

23. Amendment of section 45S.—In section 45S of the principal Act,—

- (a) in sub-section (1)—

- (i) the words “which has been ordered to be wound up” shall be omitted;
- (ii) for the words beginning with “take possession of such property” and ending with “special officer”, the following shall be substituted, namely:—

“(a) take possession of such property, books of accounts or other documents, and

(b) forward them to the official liquidator or the special officer.”;

- (b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Where any such property and effects are in the possession of the Chief Presidency Magistrate or the District Magistrate, as the case may be, such Magistrate shall, on request in writing being made to him by the official liquidator or the special officer referred to in sub-section (1), sell such property and effects and forward the net proceeds of the sale to the official liquidator or the special officer:

Provided that such sale shall, as far as practicable, be effected by public auction.

- (3) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Presidency Magistrate or the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

- (4) No act of the Chief Presidency Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.”

24. Amendment of section 45T.—In section 45T of the principal Act,—

- (a) in sub-section (3), for the words “in the same manner as an arrear of land revenue”, the following shall be substituted, namely:—

“by the liquidator in the same manner as an arrear of land revenue and for the purpose of such recovery the liquidator may forward to the Collector within whose jurisdiction the property of the person against whom any order or decision of the High Court has been made is situate, a certificate under his signature specifying the amount so due and the person by whom it is payable”;

- (b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) On receipt of a certificate under sub-section (3), the Collector shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue:

Provided that without prejudice to any other powers of the Collector, he shall, for the purposes of recovering the said amount, have all the powers, which, under the Code of Civil Procedure, 1908 (5 of 1908), a civil court has for the purpose of the recovery of an amount due under a decree.”

25. *Amendment of section 46.*—In section 46 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) If any other provision of this Act is contravened or if any default is made in complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day during which the contravention or default continues.

(5) Where a contravention or default has been committed by a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the contravention or default was committed without his knowledge or that he exercised all due diligence to prevent the contravention or default.

(6) Notwithstanding anything contained in sub-section (5), where a contravention or default has been committed by a company, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer

shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
(b) “director”, in relation to a firm, means a partner in the firm.”

26. *Amendment of section 47.*—In section 47 of the principal Act, after the words “punishable under”, the words, brackets, figures and letters “sub-section (5) of section 36AA or” shall be inserted.

27. *Amendment of section 49.*—In section 49 of the principal Act, for the figures “384”, the figures and letter “388A” shall be substituted.

28. *Amendment of section 49A.*—In section 49A of the principal Act, for the words “banking institution notified by the Central Government in this behalf”, the words “banking institution, firm or other person notified by the Central Government in this behalf on the recommendation of the Reserve Bank” shall be substituted.

29. *Amendment of section 53.*—In section 53 of the principal Act, after the words “any banking company”, the words “or institution” shall be inserted.

CHAPTER IV

AMENDMENT OF THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

30. *Amendment of section 19.*—In section 19 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) in sub-section (2), for the words “in excess of five per cent”, the words “in excess of one per cent” shall be substituted.

PART II

INDUSTRIES DEPARTMENT (GEOLOGICAL CELL)

AUCTION NOTICE

Simla-5, the 29th March, 1971

No. 5-107/70-Ind.(Glg.)(MM).—The following River Beds in Sirmur district will be sold by public auction in the office of the Mining Officer, Sirmur district, Nahan on the 6th May, 1971 at 11.00 A.M.

LIST OF RIVER BEDS TO BE AUCTIONED

Sl. No.	Name of the Quarry	Village	Tehsil	Period of auction
1.	Singhpura Quarry	Gojar and Singhpura on the right bank of Yamuna.	Paonta	Two years.
2.	Paonta Quarry	Paonta	-do-	-do-
3.	Sataun Quarry	Sataun and Chandna, etc.	-do-	-do-
4.	Majra Quarry	Majra, Kolar and Surajpur.	-do-	-do-
5.	Markanda Quarry	Satiwala, Shambhuwala, Bheriwala and Kala Amb.	Nahan	-do-

The auction is being made on the following conditions:—

- (i) The terms and conditions of the sale will be announced on the spot.

- (ii) The bid shall be per annum.
(iii) The period of auction for these quarries will be two years from the date of grant of auction. The Government reserves the right to reduce or enhance the period of contract.
(iv) Any person intending to bid shall deposit rupees one hundred with the Presiding Officer in advance as earnest money.
(v) Bidders to inspect the quarries before bidding in their own interest.
(vi) On completion of the auction the result shall be announced and the provisionally selected bidders shall immediately deposit 25 per cent of the amount of bid for one year as security for execution of the lease deed and due observance of its terms and conditions, and an equal amount as first instalment of royalty. The bid shall not be treated as accepted unless confirmed by the State Government or such other authority who may be authorised by the State Government to grant the lease.
(vii) The Presiding Officer reserves the right to group the quarries without assigning any reason.
(viii) The other information and details of the area may be obtained from the Mining Officer, Nahan.
(ix) The Government reserves the right to accept or reject the highest bid without assigning any reason.
(x) The auction is being made subject to the provisions contained in the Himachal Pradesh Minor Minerals Concession Rules, 1966.

S. K. CHAUHAN,
Director.